

ESTTA Tracking number: **ESTTA1477473**Filing date: **11/18/2025**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91296488
Party	Defendant Podworks Corp.
Correspondence address	MARK P WALTERS LOWE GRAHAM JONES PLLC 1325 FOURTH AVENUE SUITE 1130 SEATTLE, WA 98101 UNITED STATES Primary email: walters@lowegrahamjones.com Secondary email(s): voigt@lowegrahamjones.com, tmdocketing@lowegrahamjones.com, chohfi@lowegrahamjones.com 206-381-3300
Submission	Opposition/Response to Motion
Filer's name	Mark P. Walters
Filer's email	walters@lowegrahamjones.com, voigt@lowegrahamjones.com
Signature	/Mark P. Walters/
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Attachments	Applicants Opposition to Motion for Leave to File an Amended Notice of Opposition Final.pdf(1409498 bytes)

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

TOP TOBACCO, L.P.,)	
)	
Opposer,)	OPPOSITION NO. 91296488
)	
v.)	
)	
)	
PODWORKS CORP.,)	
)	
Applicant)	

**APPLICANT’S OPPOSITION TO TOP TOBACCO’S MOTION FOR LEAVE TO
FILE AN AMENDED NOTICE OF OPPOSITION**

Applicant, Podworks Corp. (“Podworks”), respectfully opposes Top Tobacco, L.P.’s (“Top Tobacco”) Motion for Leave to File An Amended Notice of Opposition (“Motion”). The Board should deny the Motion because the proposed amendment is (1) futile and legally insufficient, (2) supported only by conclusory assertions that do not satisfy Top Tobacco’s burden to plead or prove lack of bona fide intent, and (3) unduly delayed and interposed for tactical advantage.

I. LEGAL STANDARD

Under Trademark Rule 2.115, 37 C.F.R. § 2.115, and Rule 15(a) of the Federal Rules of Civil Procedure, leave to amend should be denied under circumstances involving undue delay, bad faith, repeated failure to cure deficiencies, undue prejudice, or futility. TBMP § 507.02; *see Embarcadero Techs., Inc. v. Delphix Corp.*, 117 U.S.P.Q.2d 1518, 1523 (TTAB 2016) (“Board may consider undue delay, prejudice to the opposing party, bad faith or dilatory motive, futility of the amendment, and whether the party has previously amended its pleadings.”)

Whether an applicant had a bona fide intention to use a trademark in commerce for purposes of Section 1(b) of the Lanham Act is “an objective determination based on all the

circumstances.” *Lane Ltd. v. Jackson Int’l Trading Co.*, 33 U.S.P.Q.2d 1351, 1355 (T.T.A.B. 1994) (denying motion for summary judgment regarding bona fide intent). An opposer has the burden of demonstrating the alleged lack of such intention by a preponderance of evidence or persuasive argument. *Collagenex Pharms., Inc. v. Four Star Partners*, 2003 TTAB LEXIS 494, at *20 (T.T.A.B. Sept. 24, 2003) (finding opposer had failed to establish a prima facie case that application was invalid for lack of the requisite *bona fide* intention to use its mark where opposer “offered absolutely no evidence” or persuasive argument); *see also Kellogg Co. v. Earthgrains Co.*, 2003 TTAB LEXIS 505, at *6 (T.T.A.B. Sept. 30, 2003) (opposer failed to prove claim that applicant did not have a bona fide intent to use the marks in commerce).

On a motion for leave to amend to add lack of bona fide intent, the Board asks whether, assuming the opposer’s factual allegations are true, the proposed claim would state a legally viable ground. Where the proposed claim rests on legal misstatements or conclusory assertions, the Board should deny leave to amend as futile.

II. THE PROPOSED AMENDMENT IS FUTILE AND LEGALLY INSUFFICIENT

Top Tobacco’s proposed new claim is built on two legally defective premises: (1) that Podworks’ prosecution history and the Examining Attorney’s specimen refusals in both the current and prior application (U.S. Serial Number 88/352,691) allegedly show that Podworks never intended to provide the recited Class 45 legal-information service but instead only sought a registration for “sale of cannabis”; and (2) that Top Tobacco’s dissatisfaction with Podworks’ document production means there is an “absence of any documentary evidence” of intent. Neither premise, even if taken as true, plausibly states a Section 1(b) lack-of-intent claim.

A. Specimen Refusals and Prosecution History on Use Do Not Plausibly Show Lack of Intent as of The ITU Filing.

Top Tobacco strings together Office Actions critiquing whether particular webpages

showed Podworks’ use of the mark with the claimed service and then asks the Board to infer lack of intent. But the question on a Section 1(b) claim is intent as of the intent-to-use filing or the conversion date, not whether earlier or later webpages satisfy technical use-specimen requirements. *See* TBMP § 309.03(c)(4) (lack-of-intent claims focus on “bona fide intention to use” as of the relevant date).

A specimen-refusal addresses only whether a particular specimen shows use in commerce of the recited goods or services at that moment—not whether an applicant *intends* to provide those services under Section 1(b). Likewise, converting an application to ITU status is a procedural mechanism expressly provided by the Lanham Act; doing so does not show absence of bona fide intent.

Here, Top Tobacco’s own factual narrative shows only that (1) Podworks initially tried to register under Section 1(a) with website specimens; (2) the Examining Attorney rejected those specimens as not sufficiently showing the legal-information service; (3) Podworks amended its application to one made under Section 1(b) and continued efforts to obtain registration. This history is consistent with bona fide intent (and imperfect specimens). At most, Top Tobacco has alleged a disagreement with the Examining Attorney over whether a particular webpage qualifies as a specimen.

Top Tobacco also attacks the substance of Podworks’ service concept by arguing the revised website that curates and links to third-party websites containing information about state law related to sale of cannabis resources is insufficient to show a bona fide intent. This argument goes to the legal issue of what qualifies as “use” at the time Podworks filed the Statement of Use. But on a motion for leave to amend, Top Tobacco must plead facts that, if proven, would objectively negate Podworks’ bona fide intent to provide the recited information service as of

the filing (or conversion) date. Top Tobacco presents no such facts.

Top Tobacco relies on *Commodore Elecs. Ltd. v. CBM Kabushiki Kaisha*, 1993 TTAB LEXIS 6 (T.T.A.B. Feb. 3, 1993), and *Boston Red Sox Baseball Club Ltd. P'ship v. Sherman*, 2008 TTAB LEXIS 67 (T.T.A.B. Sept. 9, 2008), for the proposition that the absence of documentary evidence can prove lack of intent. The argument misstates the holding of these cases. The absence of documentary evidence can prove lack of intent only “*absent other facts* which adequately explain or outweigh the failure of an applicant to have any documents supportive of or bearing upon its claimed intent to use its mark in commerce.” *Commodore Elecs.*, 1993 TTAB LEXIS 6, at *13 (emphasis added); *see also Boston Red Sox Baseball Club*, 2008 TTAB LEXIS 67, at *17 (applicant could have but failed to “come forward with evidence which would adequately explain or outweigh his failure to provide such documentary evidence”). In both cases, there was a complete absence of evidence considering all of the circumstances, not a mere absence of documents. As the Board has explained, neither the statute nor *Commodore Electronics* imposes any specific requirement that an applicant possesses any particular contemporaneous documents, and bona fide intent must instead be evaluated under the totality of the circumstances shown by the record. *See Lane Ltd. v. Jackson Int'l Trading Co. Kurt D. Bruhl Gesellschaft m.b.H. & Co. KG*, 1994 TTAB LEXIS 41, at *19 (T.T.A.B. Oct. 21, 1994).

Here, the circumstances described in Top Tobacco’s Motion confirm Podworks’ bona fide intention rather than negate it. Top Tobacco admits that Podworks has: (1) produced website content showing an “About” page with educational/legal-compliance topics, (2) revised that page to add bullet points on legal-sale and compliance topics; and (3) published outward-facing statements about its mission to promote education, responsibility, and a lawful cannabis market, along with ongoing brand and web development. These are concrete, contemporaneous actions

consistent with an intent to provide “a website featuring legal information concerning the legal sale of cannabis according to state law,” (Exhibit E (Application), at 3, “Identification”), not the kind of evidentiary vacuum at issue in *Commodore* or *Boston Red Sox*.

Indeed, Top Tobacco’s own factual narrative confirms that Podworks has continuously developed an informational and educational web presence, including revising content to address state-law topics and linking users to official resources. That is the opposite of the no-activity-at-all scenario in which lack-of-intent claims sometimes succeed.

The circumstances here are closer to *Collagenex Pharms., Inc. v. Four Star Partners*, 2003 TTAB LEXIS 494 (T.T.A.B. Sept. 24, 2003), and *Kellogg Co. v. Earthgrains Co.*, 2003 TTAB LEXIS 505 (T.T.A.B. Sept. 30, 2003). In *Collagenex*, the Board rejected a lack-of-intent challenge where, rather than presenting evidence of a lack of bona fide intention or showing that the applicant had “no evidence to support its claim of a *bona fide* intention” the opposer had “presented only argument, which [the Board] f[ou]nd is insufficient.” 2003 TTAB LEXIS 494, at *22–23. Likewise, in *Kellogg*, the Board found that the opposer had not proved lack of bona fide intent and expressly noted that it was “not unreasonable for applicant to delay its plans until the opposition has been decided.” 2003 TTAB LEXIS 505, at *6.

As in *Collagenex* and *Kellogg*, Top Tobacco offers rhetoric about what it thinks Podworks’ intent “must” be but no factual allegations that, if proven, would negate Podworks’ stated intent to provide a Class 45 information service.

B. Applicant’s Limited Production Reflects the Narrow Class 45 Service and Opposer’s Misdirected Requests—Not Lack of Intent.

Top Tobacco’s narrative badly distorts what actually happened in discovery. Far from revealing “no documentation” of intent, the record shows that Podworks consistently: (1) explained the narrow nature of its Class 45 legal-information service; (2) objected to Top

Tobacco’s product-centric discovery as irrelevant and disproportionate, and (3) nonetheless produced the limited materials that reasonably exist for a small information service. (*See* Exhibits A & B, as discussed further below.) These responses are entirely consistent with Rule 26(b)(1), not evidence of bad faith or lack of intent.

First, in response to Top Tobacco’s interrogatories and document requests, Podworks repeatedly clarified that the applied-for mark covers a service that is not sold, not products. For example, in answering Interrogatories No. 1–3 and 5, Podworks objected that Top Tobacco’s questions about “each product,” unit sales, prices, and channels of trade were misdirected because “Applicant’s Mark is for services that are not sold, and not for products,” and any uses of the mark on goods were “not relevant to this proceeding.” (Exhibit A.) Podworks gave the same explanation in response to multiple requests for production seeking documents about “products offered or intended to be offered,” product sales, packaging, test marketing, and product advertising. (Exhibit B, Answers to Requests 1–13, 16, & 18–20.)

Second, despite the overbroad and product-focused nature of Top Tobacco’s requests, Podworks still produced what it reasonably could for a narrow information service. Among other things, Podworks produced: (1) prosecution history documents from the USPTO file; (2) website pages and social-media content showing use of TOP SHELF CANNABIS in connection with Podworks’ online presence; and (3) other publicly available material reflecting Podworks’ brand and activities. Podworks also identified the individuals and vendors actually involved in providing and promoting the service—Podworks Corp., its principal, Thomas (“TJ”) Werth, and vendors such as GoDaddy.com and Facebook/Meta—explaining that “no products are sold in commerce under the applied-for mark, rather it is for services offered in commerce as specified in the application.” (Exhibit A, Answer to Interrogatory No. 5.)

Third, when Podworks later explained that, “in light of the nature and scope of those services, there is little, if any, additional documentation beyond what has already been produced,” that statement was entirely consistent with the service at issue. Podworks operates a single, narrowly tailored Class 45 service—“providing a website featuring legal information about the lawful sale of cannabis under state law”—not a national consumer-products business with extensive sales reports, packaging archives, and market studies. For a small legal-information website, it is hardly surprising that the documentary footprint consists largely of the website itself, related online content, and the USPTO prosecution record. The law does not require an ITU applicant to manufacture business plans, surveys, or elaborate internal documentation just to satisfy a potential opposer’s overbroad requests.

Against these conditions, Top Tobacco’s attempt to re-label Podworks’ tailored objections and modest but appropriate production as a “complete absence of documentation” is not accurate; it is a rhetorical overreach. The discovery record simply shows that Top Tobacco drafted its requests as if this were a goods case (asking about “products offered,” unit sales, packaging, test marketing, etc.), while Podworks has consistently explained that the mark is for a non-product Class 45 information service and has produced the limited materials that reasonably exist for that service. That mismatch in discovery strategy cannot be transformed into evidence—let alone a prima facie showing—that Podworks lacked a bona fide intent to use the mark for the recited service.

III. THE MOTION IS UNDULY DELAYED AND STRATEGICALLY TACTICAL

Top Tobacco’s lack-of-intent theory is not based on any newly discovered facts. The prosecution history shows that Top Tobacco has been aware of the prosecution history for years and has framed this case from day one around Podworks’ web content. If Top Tobacco truly believed lack of bona fide intent was at issue, it could have pleaded it in its original Notice, or

promptly after its first discovery requests.

Instead, Top Tobacco chose to proceed for almost a year on a single Section 2(d) theory, propounding broad discovery focused largely on “products,” sales, and marketing. Only after Podworks responded and clarified the narrow Class 45 nature of its services did Top Tobacco pivot and seek to add a new, fact-intensive lack-of-intent claim.

Thus, the “new” claim is not driven by new evidence: it is driven by Top Tobacco’s dissatisfaction with how its misdirected discovery turned out. That is the very definition of a tactical amendment. TBMP § 507.02 makes clear that, where the grounds for amendment were long known and the moving party offers no compelling justification for waiting until after significant discovery has occurred, leave may properly be denied for undue delay—especially when the amendment would broaden the case and require additional discovery and trial preparation.

Allowing Top Tobacco to add this new ground now would reward a wait-and-see strategy: Top Tobacco first pursued an overbroad, product-oriented discovery campaign premised on a different theory, then, when that approach yielded only limited, service-related documents (as it should have), it switched theories and sought to leverage that very limitation as the basis for a lack-of-intent claim. Under Rule 15 and TBMP § 507.02, the Board should not indulge such tactics. The combination of long-available facts, unexplained delay, and a clear shift in strategy after discovery strongly supports denying leave to amend.

IV. OPPOSER’S OWN PROSECUTION HISTORY UNDERCUTS ITS EQUITIES AND SUPPORTS A “TRADEMARK BULLYING” CONCERN

Public USPTO records reflect that Top Tobacco is a very active trademark litigant and filer: (1) Top Tobacco has been a party to approximately 258 TTAB oppositions and cancellations (*see* Exhibit C); and (2) Top Tobacco maintains a portfolio with roughly 88 live

applications/registrations and approximately 107 that are dead or abandoned (*see* Exhibit D). The fact that so many of Top Tobacco’s historical filings have been abandoned or are dead reflects a telling pattern. Top Tobacco relies heavily on prosecution history as a barometer of “intent.” By the same token, Top Tobacco’s own history is relevant to the Board’s discretionary assessment of whether “justice so requires” further expanding this proceeding.

Given this enforcement record, Top Tobacco’s effort to transform a straightforward Section 2(d) case—where its tobacco products are far removed from Applicant’s narrow Class 45 legal-information service—into an aggressive lack-of-intent attack on a small cannabis-law website does not look like a modest clarification of the pleadings. It is an escalation. The record here is not a case of overlapping consumer goods or a close call on confusion; it is a large tobacco company pressing for yet another ground to block a niche informational service whose identification is carefully limited to “providing a website featuring legal information about the lawful sale of cannabis under state law.” (Exhibit E, at 5.)

“Trademark bullying” is not a separate cause of action, but it is a useful shorthand for the kind of overreaching enforcement behavior that the Board may properly take into account when exercising its Rule 15 discretion. The question under Rule 15(a) is not simply whether Top Tobacco would prefer to add another claim: it is whether justice requires allowing a serial opposer with extensive enforcement resources to re-shape its pleadings yet again at the expense of a small applicant that has pursued a single, narrowly-defined service. On this record, the equities cut against granting further leave to amend.

V. CONCLUSION

Top Tobacco’s proposed lack-of-intent claim is built on conclusions rather than facts. It repackages historical specimen refusals (use issues) and discovery rhetoric (“scant production”) into a Section 1(b) theory that does not plausibly negate Podworks’ bona fide intent as of the

amending date. The amendment would be futile, is unduly delayed, and would unfairly prejudice Podworks. The Board should deny leave.

In the alternative, any leave should be conditioned as set forth above to prevent prejudice.

Date: November 18, 2025.

Respectfully submitted,

LOWE GRAHAM JONES PLLC

By: /Mark P. Walters/

Mark P. Walters

Fernanda L. Chohfi

1325 Fourth Avenue, Ste. 1130

(206) 381-3300

Walters@LoweGrahamJones.com

chohfi@lowegrahamjones.com

Attorneys for Applicant

Podworks Corp.

EXHIBIT A

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

TOP TOBACCO, L.P.,)	
)	
Opposer,)	OPPOSITION No. 91296488
)	
v.)	APPLICANT’S RESPONSES AND
)	ANSWERS TO OPPOSER’S FIRST
)	SET OF INTERROGATORIES
)	
PODWORKS CORP.,)	
)	
Applicant)	

**RESPONSE AND ANSWERS TO OPPOSER’S FIRST SET OF
INTERROGATORIES**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer, Top Tobacco, L.P., hereby requests that Applicant, Podworks Corp., serve upon Opposer sworn answers to the interrogatories set forth below within thirty (30) days. These interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service of Applicant’s initial answers should be brought to the attention of Opposer through supplemental answers within thirty (30) days following such discovery pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

1. Identify by common commercial name each product or service marketed, sold or offered, or intended to be marketed, sold or offered by Applicant under or in connection with Applicant’s Mark in the United States, and for each product or service, identify, with

respect to the United States:

- a. the inclusive dates of use of Applicant's Mark with such products or services (if applicable);
- b. the current or anticipated geographic scope of such use;
- c. the price at which the product or service is sold or intended to be sold;
- d. the annual volume of sales of the product or service in both dollars and units, if applicable;
- e. the unit sizes in which the product is or will be sold;
- f. each class of purchasers or expected purchasers of the product or service;
- g. the channels of trade by which the product or service reaches or will reach the ultimate consumer;
- h. all types of stores or forums in which the product or service is or will be offered or sold;
- i. and the persons most knowledgeable of each of the foregoing and all documents relating thereto.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Without waiving any objections, Applicant intends to produce online-marketing information, sales reports, and exemplar products responsive to this request pursuant to Fed. R. of Civ. P. 33(d). Applicant

notes that some of these documents will be marked “confidential” pursuant to the Board’s standard protective order.

2. Explain the reason(s) for Applicant’s selection of Applicant’s Mark and decision to seek trademark registrations in the United States, for each product or service identified in response to Interrogatory No. 1 as well as the procedure followed by Applicant for selecting the mark for such products or services.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant’s Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Without waiving any objections, Applicant states that the mark TOP SHELF CANNABIS was selected because it uses Applicant’s house mark, i.e., TOP SHELF, which is associated with other lines of business undertaken by Applicant since at least as early as December 2013 for some goods or services and later dates for others.

3. Identify all marks other than Applicant’s Mark considered for use in connection with each product or service identified in response to Interrogatory No. 1, and explain whether such mark was ever used with any of the products or service

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case,

considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Without waiving any objections, Applicant states that it did not consider any other marks for use in connection with the identified products or services.

4. Describe in detail each opinion, survey or research effort initiated by, for or on behalf of Applicant relating in any way to Applicant's Mark, including to the decision to use and apply to register the marks in the United States.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it does not have any non-privileged opinions, surveys, or research responsive to this request.

5. Identify all persons and entities involved or to be involved on behalf of Applicant in the marketing, distribution and sale of products or services under or in connection with Applicant's Mark in the United States, and for each such person or entity, describe in detail the products or services that have been, are being, or will be performed, and the inclusive

dates of such products or services.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Without waiving any objections, Applicant identifies Podworks Corp. and its principal, Thomas ("TJ") Werth as involved with the providing, advertising, and marketing the services rendered under the mark, specifically: *providing a website featuring legal information about the lawful sale of cannabis under state law*. Additionally, Applicant identifies GoDaddy.com and Facebook/Meta as vendors involved in Applicant's advertising and marketing. No products are sold in commerce under the applied-for mark, rather it is for services offered in commerce as specified in the application.

6. With respect to each product or service identified in response to Interrogatory No. 1, identify all means by which the product or service will be or has been advertised or promoted in the United States.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance

of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Without waiving any objections, Applicant states that the applied-for mark is used in connection with services, specifically: *providing a website featuring legal information about the lawful sale of cannabis under state law*. No products are sold in commerce under the mark. The services have been advertised and promoted online in commerce through the website featuring the legal information.

7. State whether Applicant has ever received any communications that in any manner were intended for Opposer or that in any way indicated or inquired of a connection between Opposer and Applicant or their products, and if so, with respect to each identify:

- a. each such communicator;
- b. the date and place of occurrence;
- c. the substance of each such communication; and
- d. the person receiving the communication.

ANSWER: Applicant has never received any communications that in any manner was intended for Opposer or that in any way indicated or inquired of a connection between Opposer and Applicant or their products.

8. Describe in detail Applicant's awareness and knowledge of Opposer, Opposer's business activities, and Opposer's Marks prior to Applicant's selection and adoption of Applicant's Mark and the filing of its application for registration in the United States of Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it understands generally that Opposer sells tobacco and rolling papers for tobacco. Other than this information, Applicant states that it had no other awareness and knowledge of Opposer, Opposer's business activities, or Opposer's Marks prior to Applicant's selection and adoption of Applicant's Mark and the filing of its application for registration in the United States of Applicant's Mark.

9. State whether Applicant has ever received any objection to its use or registration of Applicant's Mark other than the instant proceeding, and with respect to each such objection, identify: (a) the nature and basis of the objection, (b) when the objection was made, and (c) the disposition of the objection.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Without waiving any objection, Applicant states that it has not received any objection to its use or registration of Applicant's Mark other than

the instant proceeding.

10. Identify, on an interrogatory-by-interrogatory basis, each person furnishing information upon which any part of any answer to these interrogatories is based, indicating the parts based on information so furnished by each such person, and whether such information is within the personal knowledge of such person, and if not within such person's knowledge, identify the source of the information so furnished.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that Thomas (TJ) Werth, along with outside counsel for Podworks Corp., provided or furnished information forming parts of Applicant's answer to these interrogatories.

VERIFICATION

Pursuant to Fed. R. of Civ. P. 33, I Thomas J. Werth, hereby swear on behalf of Applicant that the factual information provide in response to these interrogatories is complete and accurate to the best of my current knowledge and recollection.

Thomas (TJ) Werth

Date: August 4, 2025.

Respectfully submitted,
By: /Mark P. Walters/
Mark P. Walters
Fernanda L. Chohfi
1325 Fourth Avenue, Ste.1130
(206) 381-3300
Walters@LoweGrahamJones.com
chohfi@lowegrahamjones.com

*Attorneys for Applicant
Podworks Corp.*

CERTIFICATE OF SERVICE

I hereby certify on August 4, 2025, a copy of the foregoing **APPLICANT'S RESPONSE AND ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served via email upon the following counsel:

Joseph B. Sherling
Neal, Gerber & Eisenberg, LLP,
225 West Randolph Avenue, Suite 2800
Chicago, Illinois 60606
jsherling@nge.com, AMcShane@nge.com

Date: August 4, 2025.

By: /Mark P. Walters/
Mark P. Walters
Attorneys for Applicant
Podworks Corp.

EXHIBIT B

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

TOP TOBACCO, L.P.,)	
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Opposer,)	OPPOSITION No. 91296488
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v.)	APPLICANT’S RESPONSES AND
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)	PRODUCTION OF DOCUMENTS
)	
)	
PODWORKS CORP.,)	
)	
Applicant)	

**RESPONSES AND ANSWERS TO OPPOSER’S
FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer, Top Tobacco, L.P., hereby requests that Applicant, Podworks Corp., produce the documents and things described below at the offices of Neal, Gerber & Eisenberg, LLP, 225 West Randolph Avenue, Suite 2800, Chicago, Illinois 60606, or at such other place mutually agreed upon by the parties, within thirty (30) days. These requests are intended to be continuing in nature, and supplemental responses should be provided if Applicant learns that a response is incomplete or incorrect in any respect, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Documents sufficient to identify:
 - a. all products offered or intended to be offered by Applicant under

Applicant's Mark;

- b. the manner in which Applicant uses or intends to use Applicant's Mark; and
- c. the geographic scope of Applicant's efforts or intended efforts to market, sell, or otherwise provide products under Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

2. Documents sufficient to identify the channels of trade through which Applicant distributes or intends to distribute products or services, or offers or intends to offer products or services, under Applicant's Mark, including, without limitation, documents sufficient to identify the customers, sales agents, distributors or other outlets through which its products or services are sold or are intended to be sold under Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for

information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

3. For each product or service offered by or intended to be offered under Applicant's Mark, documents sufficient to identify:

- a. the prices Applicant charges or intends to charge for each such product or service; and
- b. Applicant's monthly sales (in units and dollars) and projected sales of each such product or service, by country and state.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects

based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

4. All documents evidencing, referring, or relating to any sales or marketing plans for products or services sold or intended to be sold under Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

5. All documents evidencing, referring, or relating to:
- a. the manner by which Applicant advertises or promotes, has advertised or promoted, or intends to advertise or promote products or services under Applicant's Mark;
 - b. any publications in which Applicant has placed or intends to place print advertisements, articles or other information concerning products or services Applicant offers or intends to offer under Applicant's Mark; and
 - c. any Internet website under Applicant's direction or control referring or relating to Applicant's Mark, including but not limited to printouts of all

such website pages.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

6. Documents sufficient to identify the total expenditures incurred by Applicant to date, by month, if available, for all advertising and marketing relating to products or services sold under Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states

that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

7. All documents constituting, describing or relating to any forecast for expenditures anticipated or planned to be incurred by Applicant for advertising and marketing products or services using or relating to Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

8. All documents that disclose, describe, or otherwise relate to:
- a. the characteristics or profiles of the type of person or entity that purchases or otherwise receives products or services provided by Applicant under Applicant's Mark or the type of person or entity to whom Applicant intends to market and sell products or services under Applicant's Mark;
 - b. any incident(s) wherein any persons or entities have indicated that they understood, believed or questioned whether Opposer's business or products or services, and Applicant's business or products, were in any way affiliated, associated or connected with one another; and with regard to any

such incident(s), produce all documents that disclose, describe or are related to:

- i. the place of such incident;
- ii. the date of such incident;
- iii. the identity of all persons or entities involved in or having knowledge of such incident, and the nature of their involvement or knowledge;
- iv. the products or services involved in such incident;
- v. the nature of the incident;
- vi. how the incident came to the attention of Applicant; and
- vii. efforts to ascertain or monitor such incidents.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

9. All documents constituting or relating to:

- a. correspondence (including electronic mail), telephone calls, or other communications received by Applicant that appear to be intended for or that relate to Opposer; and

b. Opposer or Opposer's products.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

10. All documents evidencing, referring, or relating to the selection or adoption of Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

11. All documents constituting, describing or concerning any and all trademark

searches, investigations, polls, studies, evaluations, analysis, tests, ratings, surveys or any research relating to Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

12. All documents constituting, describing or concerning any and all trademark searches, investigations, polls, studies, evaluations, analysis, tests, ratings, surveys or any research relating to Opposer and its trademarks, including any and all legal opinions relating to Opposer or Opposer's Marks.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on

goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

13. Documents sufficient to identify any person employed by or associated with the Applicant who was involved in or responsible for the selection or adoption of Applicant's Mark, and with respect to each person so identified, the nature and scope of his or her involvement.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Applicant further objects that this request is vague and ambiguous with respect to the words "sufficient to identify." The mark was selected by Podworks' owner, TJ Werth. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

14. All documents evidencing, referring, or relating to the decision by Applicant to adopt, or apply for registration of, Applicant's Mark, including, but not limited to, all documents related to any discussions concerning such decision(s).

ANSWER: Applicant objects to this request to the extent that it calls for

information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Applicant further objects that the request calls for documents available in the public record, namely the documents in Applicant's registration file maintained by the USPTO. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request not available in the public record.

15. All documents relating or referring to any draft or actual filings with either the United States Patent and Trademark Office or any state's trademark office concerning any attempted registration by Applicant of Applicant's Mark, including the Subject Application.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Applicant further objects that the request calls for documents available in the public record, namely the documents in Applicant's registration file maintained by the USPTO. Without waiving any objections, Applicant states that it is not aware of any non-privileged, responsive documents to this request not available in the public record.

16. All documents that disclose, describe, constitute or otherwise relate to:

- a. statements or reports concerning the quality or perceived standards of quality of products or services offered, or to be offered, under Applicant's Mark or otherwise;
- b. any potential, threatened or actual civil action or inter partes proceeding relating to Applicant's Mark or involving products or services offered or to be offered by Applicant under Applicant's Mark or otherwise; and
- c. any complaints concerning any products or services distributed, marketed or sold at any time by Applicant, whether under Applicant's Mark or otherwise.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

17. All documents evidencing, referring, or relating to use by any third-party of any mark comprising Applicant's Mark, Opposer's Marks, or any other term that is visually or phonetically similar thereto.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case,

considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Applicant further objects that the request calls for documents available in the public record, namely the documents in Applicant's registration file maintained by the USPTO. Without waiving any objections, Applicant states that it is not aware of any responsive documents to this request.

18. Representative specimens of all packaging, hang tags, wrapping, promotional material, press or publicity releases, brochures, pamphlets, advertisements, point of sale displays, signs, trade show displays, labels, or other material that depicts or describes any products or services marketed, distributed, sold, or offered under Applicant's Mark, or intended to be marketed, distributed, sold, or offered under Applicant's Mark, including all drafts, mock-ups and prototypes thereof.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states

that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

19. All documents evidencing, referring, or relating to the development, production, or placement of all advertisements, either actual or considered, depicting or describing any products or services marketed, distributed, sold, or offered under Applicant's Mark, or intended to be marketed, distributed, sold, or offered by Applicant under Applicant's Mark.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it will produce responsive documents, if any, following a reasonable search for the same and allowing time for review by counsel.

20. All documents evidencing, referring, or relating to test marketing conducted by Applicant, or on its behalf, of any products or services offered or intended to be offered under Applicant's Mark, including but not limited to any market surveys, analyses, or studies concerning the promotion, use, potential sale, or sale of such product or service.

ANSWER: Applicant objects to this request to the extent that it calls for

information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. For example, Applicant's Mark is for services that are not sold, and not for products. Therefore, to the extent Applicant uses the mark on goods or other services, those are not relevant to this proceeding. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any documents responsive to this request.

21. All agreements that relate in any way to Applicant's Mark, including all amendments and modifications thereto.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states, consistent with its response to Interrogatory No. 12, it has agreements with employees, vendors, and retailers related to the sale of the products, but considers these agreements not relevant to these proceedings and unduly burdensome to identify in response to this request.

22. All documents consulted in the preparation of, or that are requested to be identified in, Applicant's responses to Opposer's First Set of Interrogatories.

ANSWER: Applicant incorporates its objections and responses to Opposer's First Interrogatories. Other than documents identified as responsive to specific Interrogatories pursuant to Rule 33(d), Applicant states that it is unaware of other documents responsive to this request other than those already available to Opposer, including, the Notice of Opposition, Applicant's Answer, and the relevant Applicant files identified in the Notice of Opposition and maintained in the public record by the USPTO.

23. All documents relating to any document retention policy of Applicant or the destruction of documents by Applicant at any time.

ANSWER: Applicant objects to this request to the extent that it calls for information or documents that are not relevant nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Applicant further objects based on the attorney-client privilege. Without waiving any objections, Applicant states that it is not aware of any documents responsive to this request.

Date: August 4, 2025.

Respectfully submitted,
By: /Mark P. Walters/
Mark P. Walters
Fernanda L. Chohfi
1325 Fourth Avenue, Ste.1130
(206) 381-3300
Walters@LoweGrahamJones.com
chohfi@lowegrahamjones.com

***Attorneys for Applicant
Podworks Corp.***

CERTIFICATE OF SERVICE

I hereby certify on August 4, 2025, a copy of the foregoing **APPLICANT'S RESPONSES AND ANSWERS TO OPPOSER'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS** was served via email upon the following counsel:

Joseph B. Sherling
Neal, Gerber & Eisenberg, LLP,
225 West Randolph Avenue, Suite 2800
Chicago, Illinois 60606
jsherling@nge.com, AMcShane@nge.com

Date: August 4, 2025.

By: /Mark P. Walters/
Mark P. Walters
Attorneys for Applicant
Podworks Corp.

EXHIBIT C

Summary

Query: Proceeding Status is: ALL
and Party Name contains all words: TOP TOBACCO, L.P.
Number of results: 258
Results are in reverse chronological order

Page #11. Go to page: Previous 1 2 3 4 5 6 7 8 9 10 11

Proceeding Filing Date	Defendant(s), Property(ies)	Plaintiff(s), Property(ies)
78123850 11/13/2002	Cohen, Peter E. Mark: AMPHORA S#:78123850	Republic Tobacco, L.P. Top Tobacco, L.P. TOP TOBACCO, L.P.
76074186 07/10/2002		TOP TOBACCO L.P. Mark: TOP S#:76074186
76074182 03/21/2002		TOP TOBACCO L.P. Mark: TOP S#:76074182
92032824 02/15/2002	ROBERT BURTON ASSOCIATES, LTD. Mark: TULSA TOPS S#:73517735 R#:1350948	TOP TOBACCO, L.P. Mark: TOP S#:75393869 R#:2293958
91124921 01/02/2002	H & L TOBACCO, CORP. Mark: TOP RIDER S#:76239503	TOP TOBACCO, L.P. Mark: TOP S#:75393869 R#:2293958
91118632 04/26/2000	PHILIP MORRIS INCORPORATED Mark: TOP CHOICE S#:75707627	TOP TOBACCO, L.P. Mark: TOP S#:75393869 R#:2293958
91113773 04/19/1999	HOST MARRIOTT SERVICES CORPORATION Mark: TOP HAT S#:75334320	TOP TOBACCO, L.P. Mark: TOP S#:75393869 R#:2293958
91113774 04/19/1999	HOST MARRIOTT SERVICES CORPORATION Mark: TOP HAT EST. 1996 CIGAR & TOBACCO CO. S#:75345319	TOP TOBACCO, L.P. Mark: TOP S#:75393869 R#:2293958

Page #11. Go to page: Previous 1 2 3 4 5 6 7 8 9 10 11

Results as of 11/04/2025 12:24 AM

[Search again](#)

EXHIBIT D

Owner Top Tobacco, L.P. Refine search by goods or services Basic Expert


Status filter 195 results for Top Tobacco, L.P. Export

Live 88 Registered Pending Dead 107 Cancelled Abandoned

Sort Configure Show image Reset

<p>MCCLINTOCK</p> <p>Wordmark MCCLINTOCK</p> <p>Status LIVE PENDING</p> <p>Goods & services IC 034: Tobacco.</p> <p>Class 034</p> <p>Serial 97412550</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>BULL DURHAM</p> <p>Wordmark BULL DURHAM</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: cigarette tubes.</p> <p>Class 034</p> <p>Serial 88978789</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 88606251</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: Cigarette rolling machines.</p> <p>Class 034</p> <p>Serial 76633097</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>HIGH CARD</p> <p>Wordmark HIGH CARD</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: Cigarette rolling papers and smoking tobacco.</p> <p>Class 034</p> <p>Serial 76566417</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>GAMBLER</p> <p>Wordmark GAMBLER</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: cigarette rolling machines.</p> <p>Class 034</p> <p>Serial 77094160</p> <p>Owners TOP TOBACCO, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>SWIFT</p> <p>Wordmark SWIFT</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 85033260</p> <p>Owners Top Tobacco L.P. (limited partnership; DELAWARE, USA)</p>	<p>MASTER ROLL</p> <p>Wordmark MASTER ROLL</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 007: cigarette making machines; (ABANDONED) IC 034...</p> <p>Class 007, 034</p> <p>Serial 85033264</p> <p>Owners Top Tobacco L.P. (limited partnership; DELAWARE, USA)</p>
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<p>SEVILLE</p> <p>Wordmark SEVILLE</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 007: Cigarette making machines; (ABANDONED) IC 034...</p> <p>Class 007, 034</p> <p>Serial 85289829</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>MIKROMATIC</p> <p>Wordmark MIKROMATIC</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 85080565</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>QUIX</p> <p>Wordmark QUIX</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 007: Cigarette making machines; (ABANDONED) IC 034...</p> <p>Class 007, 034</p> <p>Serial 85305027</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>MIKROMATIC</p> <p>Wordmark MIKROMATIC</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 90375603</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark MIKROMATIC</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 90375609</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>TOP CANADIAN CROWN</p> <p>Wordmark TOP CANADIAN CROWN</p> <p>Status DEAD CANCELLED</p> <p>Goods & services (CANCELLED) IC 034: [[cigarettes and] cigarette tobacco].</p> <p>Class 034</p> <p>Serial 74315699</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>ROLL WITH NATURE</p> <p>Wordmark ROLL WITH NATURE</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; Cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 86290606</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>LASER</p> <p>Wordmark LASER</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: tobacco; Cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 86353408</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>
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<p>LARGO</p> <p>Wordmark LARGO</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: smoker's articles, namely, kits for roll-your-own...</p> <p>Class 034</p> <p>Serial 86808066</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>FOUR ACES</p> <p>Wordmark FOUR ACES</p> <p>Status DEAD ABANDONED</p> <p>Goods & services (ABANDONED) IC 034: Cigarette papers; cigarette filters; cigarette...</p> <p>Class 034</p> <p>Serial 88184934</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark</p> <p>Status LIVE PENDING</p> <p>Goods & services IC 034: tobacco; cigarette papers; cigarette filters; cigarette...</p> <p>Class 034</p> <p>Serial 97818315</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>SAMSON</p> <p>Wordmark SAMSON</p> <p>Status LIVE PENDING</p> <p>Goods & services IC 034: tobacco; hookah tobacco; cigarette papers; cigarette filters;...</p> <p>Class 034</p> <p>Serial 98752716</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; Delaware, USA)</p>	<p>PREMIER</p> <p>Wordmark PREMIER</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: cigarette tubes; hand-held machines for injecting tobacco into...</p> <p>Class 034</p> <p>Serial 88975803</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>TOP</p> <p>Wordmark TOP</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: smoking tobacco.</p> <p>Class 034</p> <p>Serial 76074186</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>TUBE CUT</p> <p>Wordmark TUBE CUT</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Smoking tobacco.</p> <p>Class 034</p> <p>Serial 76566091</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>TOP-O-MATIC</p> <p>Wordmark TOP-O-MATIC</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Cigarette rolling machines.</p> <p>Class 034</p> <p>Serial 76570303</p> <p>Owners Top Tobacco, L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>
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<p>JPS</p> <p>Wordmark JPS</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Loose tobacco for pipes.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>LARGO</p> <p>Wordmark LARGO</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Tobacco.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: cigarette tubes.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>SWIFT</p> <p>Wordmark SWIFT</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 007: cigarette making machines.</p> <p>Class 007</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>REAL</p> <p>Wordmark REAL</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Cigarette tubes.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>MCCLINTOCK</p> <p>Wordmark MCCLINTOCK</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Cigarette tubes.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	 <p>Wordmark MCCLINTOCK</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 034: Cigarette tubes.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>	<p>PREMIER SUPERMATIC</p> <p>Wordmark PREMIER SUPERMATIC</p> <p>Status LIVE REGISTERED</p> <p>Goods & services IC 01: inject tube.</p> <p>Class 034</p> <p>Serial 85570000</p> <p>Owners Top Tobacco L.P. (LIMITED PARTNERSHIP; DELAWARE, USA)</p>
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EXHIBIT E

**Filing Receipt for Trademark/Service Mark Application for Registration
on the Principal Register
and Next Steps in the Application Process**

Thank you for submitting your trademark application to the U.S. Patent and Trademark Office (USPTO). This filing receipt confirms your mark and serial number, describes next steps in the application process, and includes the information submitted in your application. Please read this receipt carefully and keep a copy for your records.

For an overview of important things to know after filing your application, visit our website to read the [After You File](#) page and watch video number 9 "[After You File](#)."

1. Your mark. TOP SHELF CANNABIS (Standard Characters, mark.jpg)

The literal element of the mark consists of TOP SHELF CANNABIS. The mark consists of standard characters, without claim to any particular font style, size, or color.

2. Your serial number. Your application was assigned serial number '90242522'. You must refer to your serial number in all communications about your application.

3. What happens next—legal examination. Your mark will not be registered automatically. In approximately three months, your application will be assigned to a USPTO examining attorney for review. The attorney will determine if your application meets all applicable legal requirements, and if it doesn't you will be notified in an email with a link to the official Office action (official letter from the USPTO). Visit our website for an explanation of [application process timelines](#).

If your mark includes a design element, we will assign it one or more [design search codes](#). We will notify you of these codes within the next few weeks and you can suggest that we add or delete a design search code from your file.

4. Keep your addresses current in USPTO records. We do not extend filing deadlines if you do not receive USPTO mail or email. If your postal address or email address changes, you must update the correspondence or owner's address using the [address forms](#) on our website.

5. Check your application status in our database every three to four months. To be sure that you don't miss an important email from us, and to avoid the possible [abandonment](#) of your application, check your application status and review your documents in our database, [Trademark Status and Document Retrieval \(TSDR\)](#), every three to four months.

6. Warning about private companies offering trademark-related services. Private companies may send you communications that resemble official USPTO communications. These private companies are not associated with the USPTO. All official correspondence will be from the "United States Patent and Trademark Office" in Alexandria, Virginia, and from emails with the domain "uspto.gov." If you are unsure about whether the correspondence is from us, check your records in our database, [TSDR](#). Visit our website for more information on trademark-related [communications that may resemble official USPTO communications](#).

7. Questions? Please visit our [website](#), [email us](#), or call us at 1-800-786-9199 and select option 1.

8. Application data. If you find an error in the data below, visit the [After You File](#) page on our website for information on correcting errors.

The information submitted in the application appears below:

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register
The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	90242522
MARK INFORMATION	
*MARK	mark.jpg
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	TOP SHELF CANNABIS
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
APPLICANT INFORMATION	
*OWNER OF MARK	Podworks Corp.
INTERNAL ADDRESS	Suite B
*MAILING ADDRESS	19705 60th Ave NE
*CITY	Arlington
*STATE (Required for U.S. applicants)	Washington
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	98223
PHONE	206-381-3300
FAX	206-381-3301
*EMAIL ADDRESS	topshelfwa@gmail.com
LEGAL ENTITY INFORMATION	

TYPE	corporation
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY OF INCORPORATION	Washington
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	041
*IDENTIFICATION	Providing a website featuring information concerning the legal sale of cannabis according to state law
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/22/2019
FIRST USE IN COMMERCE DATE	At least as early as 07/10/2020
SPECIMEN FILE NAME(S)	SPE0-502378522-2020100618 5726599240_._Capture_fro m _client_website.JPG
SPECIMEN DESCRIPTION	Screen shot from clients website accessed on 10/6/2020.
ADDITIONAL STATEMENTS SECTION	
DISCLAIMER	No claim is made to the exclusive right to use CANNABIS apart from the mark as shown.
ATTORNEY INFORMATION	
NAME	Mark P. Walters
ATTORNEY DOCKET NUMBER	PODS-2-1013
ATTORNEY BAR MEMBERSHIP NUMBER	30819
YEAR OF ADMISSION	2000
U.S. STATE/ COMMONWEALTH/ TERRITORY	Washington
FIRM NAME	Lowe Graham Jones PLLC
INTERNAL ADDRESS	Suite 4800
STREET	701 Fifth Avenue
CITY	Seattle
STATE	Washington
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	98104

PHONE	206-381-3300
FAX	206-381-3301
EMAIL ADDRESS	walters@lowegrahamjones.com
CORRESPONDENCE INFORMATION	
NAME	Mark P. Walters
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	walters@lowegrahamjones.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	voigt@lowegrahamjones.com; tmdocketing@lowegrahamjones.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	1
APPLICATION FOR REGISTRATION PER CLASS	275
*TOTAL FEES DUE	275
*TOTAL FEES PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/Mark P. Walters/
SIGNATORY'S NAME	Mark P. Walters
SIGNATORY'S POSITION	Attorney of Record, Washington Bar member
SIGNATORY'S PHONE NUMBER	206-381-3300
DATE SIGNED	10/08/2020

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO Form 1478 (Rev 09/2006)

OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

Serial Number: 90242522

Filing Date: 10/08/2020

To the Commissioner for Trademarks:

The applicant, Podworks Corp., a corporation of Washington, having an address of
Suite B
19705 60th Ave NE
Arlington, Washington 98223
United States
206-381-3300(phone)
206-381-3301(fax)
topshelfwa@gmail.com

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 041: Providing a website featuring information concerning the legal sale of cannabis according to state law

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 03/22/2019, and first used in commerce at least as early as 07/10/2020, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Screen shot from clients website accessed on 10/6/2020..
Specimen-1 [SPE0-502378522-2020100618 5726599240_._Capture_from_client_website.JPG]

Disclaimer

No claim is made to the exclusive right to use CANNABIS apart from the mark as shown.

The owner's/holder's proposed attorney information: Mark P. Walters. Mark P. Walters of Lowe Graham Jones PLLC, is a member of the Washington bar, admitted to the bar in 2000, bar membership no. 30819, is located at

Suite 4800
701 Fifth Avenue
Seattle, Washington 98104

United States
206-381-3300(phone)
206-381-3301(fax)
walters@lowegrahamjones.com

The docket/reference number is PODS-2-1013.

Mark P. Walters submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Mark P. Walters

PRIMARY EMAIL FOR CORRESPONDENCE: walters@lowegrahamjones.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): voigt@lowegrahamjones.com;
tmdocketing@lowegrahamjones.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

Basis:

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and

- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Mark P. Walters/ Date: 10/08/2020

Signatory's Name: Mark P. Walters

Signatory's Position: Attorney of Record, Washington Bar member

Signatory's Phone Number: 206-381-3300

Thank you,

The TEAS support team

Thu Oct 08 15:10:25 ET 2020

STAMP: USPTO/BAS-50.237.85.22-20201008151024962970-90242522-

750f0c5a4a122d678865d5cf47e808a65639fa69e54a62e42812d089d7ace-ET-10244430-

20201006185726599240