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Filing date: **05/24/2007**

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

Proceeding	92045838
Party	Plaintiff Mountain Valley Spring Company, LLC Mountain Valley Spring Company, LLC Mountain Valley Spring Company, LLC Mountain Valley Spring Company, LLC 150 Central Avenue Hot Springs, AR 71901 UNITED STATES
Correspondence Address	Trent C. Keisling Keisling Pieper & Scott, PLC One East Center St., Ste. 217 Fayetteville, AR 72701 UNITED STATES trent.keisling@kpslaw.com
Submission	Other Motions/Papers
Filer's Name	S. Christian Gunn
Filer's e-mail	christian.gunn@kpslaw.com, deborah.siegel@kpslaw.com
Signature	/S. Christian Gunn/
Date	05/24/2007
Attachments	motion to compel2nd exhibit A.pdf ( 9 pages )(278652 bytes ) motion to compel2nd exhibit B.pdf ( 1 page )(188673 bytes )

Atty. Dkt. No. 015196  
Customer No. 30,767

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

In the Matter of U.S. Trademark Registration No. 2,787,692  
For the mark **AMERICA'S PREMIUM SPRING WATER**  
Date Registered: November 25, 2003

Mountain Valley Spring Company, LLC )  
A Limited Liability Company organized )  
and existing under the laws of the State )  
of Arkansas, )

Petitioner, )

Cancellation No. 92045838

v. )

David M. Zutler, an Individual, )  
Resident of the State of Colorado )

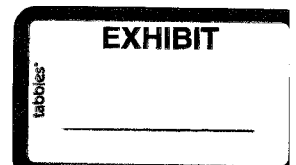
Respondent. )

**PETITIONER'S SECOND SET OF  
INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO RESPONDENT**

Petitioner, Mountain Valley Spring Company, LLC, in accordance with Rule 33 and other applicable rules of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, propounds the following discovery requests to be answered by Respondent in writing under oath.

**INSTRUCTIONS AND DEFINITIONS**

A. These interrogatories and requests for production of documents seek answers as of the date hereof and, as to any interrogatories or requests addressed to matters falling within Rules 26(e)(1) and 26(e)(2) of the Federal Rules of Civil



Procedure, shall be deemed to be continuing, requiring Respondent to serve on Petitioner such further supplemental or amended answers reasonably after Respondent has acquired additional knowledge or information relating in any way to the interrogatories.

B. As used herein, the following definitions apply:

1. **Communication.** The term “communication” means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).
2. **Document.** The term “document” is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a) Fed. R. Civ. P. A draft or non-identical copy is a separate document within the meaning of this term.
3. **Identify (with respect to persons).** When referring to a person, “to identify” means to give, to the extent known, the person’s full name, present or last known address and, when referring to a natural person, additionally, the present or last known place of employment and title. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
4. **Identify (with respect to documents).** When referring to documents, “to identify” means to state, to the extent known, the:  
(a) type of document; (b) general subject matter; (c) date the

document was prepared; and (d) author(s), addressee(s) and recipient(s).

5. **Respondent.** The term “Respondent” means David M. Zutler and any predecessors in interest to or assignee of the rights of Respondent and, where applicable, employees or partners.
6. **Person.** The term “person” is identified as any natural person or any business, legal or governmental entity or association.
7. **Concerning.** The term “concerning” means relating to, referring to, describing, evidencing or constituting.
8. **All/Each.** The terms “all” and “each” shall be construed as all and each.
9. **And/Or.** The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.
10. **Number.** The use of the singular form of any word includes the plural and vice versa.
11. **AMERICA’S PREMIUM SPRING WATER.** The mark AMERICA’S PREMIUM SPRING WATER refers to the mark that is the subject of the opposed registration.

**INTERROGATORY NO. 1**

Identify in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to estoppel.

**REQUEST FOR PRODUCTION NO. 1**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 2**

Produce all documents which evidence or support your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to estoppel.

**INTERROGATORY NO. 2**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to waiver.

**REQUEST FOR PRODUCTION NO. 3**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 4**

Produce all documents which evidence or support your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to waiver.

**INTERROGATORY NO. 3**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to laches.

**REQUEST FOR PRODUCTION NO. 5**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 6**

Produce all documents which evidence or support your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to laches.

**INTERROGATORY NO. 4**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to acquiescence.

**REQUEST FOR PRODUCTION NO. 7**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 8**

Produce all documents which evidence or support your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to acquiescence.

**INTERROGATORY NO. 5**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to unclean hands.

**REQUEST FOR PRODUCTION NO.9**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 10**

Produce all documents which evidence or support your assertion in Paragraph No. 2 of the Answer that the Petitioner's claims are or may be barred due to unclean hands.

**INTERROGATORY NO. 6**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 3 of the Answer that the Petitioner's claims are or may be barred due to abandonment.

**REQUEST FOR PRODUCTION NO. 11**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 12**

Produce all documents which evidence or support your assertion in Paragraph No. 3 of the Answer that the Petitioner's claims are or may be barred due to abandonment.

**INTERROGATORY NO. 7**

State in detail all specific facts, reasons and circumstances for your assertion in Paragraph No. 1 of the Answer that the Petitioner's claims are or may be barred due to failure to state a claim upon which relief can be granted.

**REQUEST FOR PRODUCTION NO. 13**

Produce all documents which refer or relate to your response to the preceding interrogatory.

**REQUEST FOR PRODUCTION NO. 14**

Produce all documents which evidence or support your assertion in Paragraph No. 1 of the Answer that the Petitioner's claims are or may be barred due to failure to state a claim upon which relief can be granted.

**REQUEST FOR PRODUCTION NO. 15**

Produce all written correspondence between the parties in this proceeding.

**REQUEST FOR PRODUCTION NO. 16**

Produce all written correspondence between the Respondent and any other entity regarding the Petitioner.

**REQUEST FOR PRODUCTION NO. 17**

Produce all written correspondence between the Respondent and any other entity regarding the Petitioner and/or any of its marks, including, but not limited the mark AMERICA'S PREMIUM WATER.



**REQUEST FOR PRODUCTION NO. 18**

Produce all written correspondence between the Respondent and any other entity regarding the Petitioner and/or any of its marks, including, but not limited the mark AMERICA'S PREMIUM SPRING WATER.

**REQUEST FOR PRODUCTION NO. 19**

Produce all documents relied upon in preparing responses to the above Interrogatories.

Respectfully submitted,

KEISLING PIEPER & SCOTT PLC



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S. Christian Gunn, Ark. Bar No. 2003223  
1 East Center Street, Suite 217  
Fayetteville, Arkansas 72701  
(479) 251-0800  
Attorneys for Petitioner

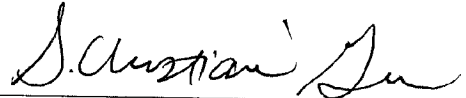
Date: 11-7-06

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Petitioner's First Set of Interrogatories to Respondent was served on the following attorney of record for Applicant by depositing same in the United States mail, first class, postage prepaid, this 7th day of November, 2006:

Steven B. Smith  
Eric Bentley  
Jill J. Chalmers  
HOLME ROBERTS & OWEN LLP  
90 S. Cascade Ave., Suite 1300  
Colorado Springs, CO 80903

Linnea Brown  
HOLME ROBERTS & OWEN LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203-4541



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S. Christian Gunn

KEISLING PIEPER & SCOTT P.L.C.

TRENT C. KEISLING  
DAVID B. PIEPER  
JENN M. SCOTT  
S. CHRISTIAN GUNN  
MEREDITH K. LEWIS  
STEPHEN D. SCHLANTZ

Bank of America Plaza  
One East Centur Street, Suite 217  
Fayetteville, Arkansas 72701  
Telephone (479) 251-0800  
Facsimile (479) 251-0801

SENIOR COUNSEL  
ROBERT R. KEISAN

Registered Patent Attorneys

December 14, 2007

Linnea Brown  
HOLME ROBERTS & OWEN LLP  
1700 Lincoln Street, Suite 4100  
Denver, CO 80203-4541

Jill J. Chalmers  
HOLME ROBERTS & OWEN LLP  
90 S. Cascade Ave., Suite 1300  
Colorado Springs, CO 80903-1615

RE: In the Matter of U.S. Trademark Serial No. 2,787,692  
**AMERICA'S PREMIUM SPRING WATER**  
Cancellation No. 92045838  
Our File No. 015196

Dear Counselors:

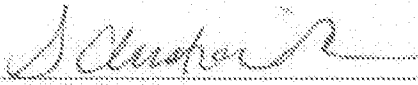
On November 7, 2006, we propounded to you Petitioner's Second Set of Interrogatories and Requests for Production of Documents to Respondent, a copy of which is enclosed for your convenience.

Answers and documents to be produced were due on or about December 11, 2006. Accordingly, please accept this as my good faith attempt to resolve this discovery matter without seeking intervention from the Trademark Trial and Appeal Board. If I have not received complete responses by the end of next week, I will go ahead and file a Motion to Compel.

Thank you for your attention to this matter.

Sincerely,

KEISLING PIEPER & SCOTT P.L.C.

  
S. Christian Gunn

SCG/trb  
Enclosure  
cc: Client

