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

Proceeding	92060457
Party	Plaintiff Old Row, LLC
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Submission	Motion to Compel Discovery
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Date	05/14/2015
Attachments	Motion to Compel Discovery.pdf(98561 bytes) Pet's 1st Set of RFP.pdf(116338 bytes) Pet's 1st Set of ROGs.pdf(119834 bytes)

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

OLD ROW, LLC	§	
	§	
Petitioner,	§	Cancellation No. 92060457
	§	
v.	§	Registration No: 4,541,959
	§	
The Southern Shirt Company, LLC	§	Mark: OLD ROW
	§	
Registrant.	§	

PETITIONER OLD ROW, LLC's MOTION TO COMPEL DISCOVERY

Pursuant to Rules 26 and 37 of the Federal Rules of Civil Procedure, 37 CFR §2.120(e) and TBMP Section 523.01, Petitioner Old Row, LLC ("Petitioner" or "Old Row") files this its Motion to Compel Discovery Responses ("Motion") from Registrant The Southern Shirt Company, LLC to Old Row's validly issued and served First Set of Requests for Interrogatories and First Set of Requests for Production. In support of this Motion, Old Row will show as follows:

I. BACKGROUND

1. On March 16, 2015, Old Row served Counsel for Registrant, the Southern Shirt Company, LLC via facsimile and email by agreement Petitioner's First Set of Requests for Interrogatories and First Set of Requests for Production (collectively, "Discovery") (attached hereto as Exhibits A and B). Counsel for Registrant confirmed receipt of Discovery via reply email on March 16, 2015.

2. Registrant's Responses to the Discovery served on Registrant were due to be served on Petitioner's counsel no later than April 20, 2015. However, Registrant failed to Respond to the Discovery at all and Registrant's counsel failed to request an extension of the deadline to respond to the Discovery.

3. On April 27, 2015, Petitioner's counsel, Wendy B. Mills contacted counsel for Registrant, Bert Guy and J. Harris Haigood via email to inquire as to the status of Registrant's Discovery Responses. That same day, Counsel for Petitioner and J. Harris Haigood conferred over the phone regarding the Registrant's failure to respond to Petitioner's Discovery Requests. Mr. Haigood acknowledged that Registrant did not respond and did not intent to respond. Moreover, Mr. Haigood acknowledged that he knew that Registrant had waived its right to object to this discovery. However, he requested that counsel for Petitioner wait to file its Motion to Compel Discovery, until he discussed the matter with his client.

4. On May 1, 2015, Petitioner's counsel emailed counsel for Registrant in an effort to again confer on Petitioner's Motion to Compel Discovery to which Mr. Haigood responded via telephone voice mail requesting that Petitioner wait another week to take any action, while he attempted to speak with his Client.

5. On May 5, 2015, Petitioner's counsel made one last effort to engage in a meaningful conference via email with Registrant's counsel, Bert Guy and/or J. Harris Haigood. Petitioner's counsel received no email response, but received a phone call from Mr. Guy who indicated that Registrant needed more time to consider the matter, but that Registrant was considering just "abandoning" the Mark. Mr. Guy further mentioned that

Registrant had been involved in a separate trademark lawsuit over another Mark that was more valuable to Registrant.

6. As of the date of filing this Motion, Petitioner has heard nothing further from Registrant's counsel regarding this Motion to Compel and Petitioner is forced to take action to Compel Registrant to Respond to Petitioner's Discovery Requests.

7. Discovery closes in this case on August 11, 2015.

II. MOTION TO COMPEL

A. Petitioner Has Made a Good Faith Effort to Work with Registrant

In accordance with the Trademark Rules of Practice 2.120(e), Petitioner has made a good faith effort to resolve the discovery dispute referenced in this Motion as referenced herein. However, Registrant has never indicated on any of the three (3) occasions that Petitioner's counsel conferred with Registrant's counsel, that it had any intent to respond to Petitioner's Discovery Requests. Instead, Registrant simply requested that Petitioner wait until counsel could speak with their Client, beginning on April 27, 2015 with Petitioner's first attempt to confer. However, it is now 22 days past the date that Registrant's Responses to Petitioner's Discovery Requests were due and approximately 15 days since Petitioner first conferred with counsel for Registrant regarding this Motion with no resolution or response that would indicate that Registrant would agree to respond to Petitioner's Discovery Requests. Accordingly, Petitioner has no choice, but to file this Motion.

B. Registrant Waived its Right to Object to Discovery

Registrant has waived its right to object to the Discovery propounded on Registrant and Registrant's counsel acknowledged this during the first conference

regarding this Motion as referenced herein. The Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) provides that a Party who fails to timely respond to Interrogatories and/or Requests for Production Discovery and is unable to show that the failure to respond is due to excusable neglect, may be found, upon Motion to Compel to have forfeited or waived its right to object to discovery on the merits. *See* TBMP §§ 403.03 and 407.01. *See also* *Bison Corp. v. Perfecta Chemie, B.V.*, 4 U.S.P.Q. 2d (TTAB 1987).

Registrant’s Responses to Petitioner’s First Set of Interrogatories and First Set of Requests for Production were due on April 20, 2015. Accordingly, Petitioner respectfully requests that the Board Order that Registrant Respond fully to Petitioner’s Discovery Requests referenced herein, *without objections*, 20 days from the date of the Board’s Order on this Motion.

III. CONCLUSION AND REQUEST

For the foregoing reasons, Petitioner hereby respectfully requests that the Board Grant Petitioner’s Motion to Compel and Order Registrant to respond fully to Petitioner’s First Set of Interrogatories and First Set of Requests for Production within 20 days of the Board’s issuance of an Order on this Motion.

Respectfully submitted,

/s/ Wendy B Mills
Wendy B. Mills
KENNEDY LAW, P.C.
1445 Ross Ave.
Suite 4950
Dallas, TX 75202
Email: wmills@saklaw.net
Tel: 214-716-4343
ATTORNEY FOR PETITIONER

CERTIFICATE OF TRANSMISSION AND SERVICE

I hereby certify that this paper is being electronically transmitted to the United States Patent and Trademark Office Trademark Trial and Appeal Board and to Counsel for Registrant via email by agreement of the parties with a courtesy copy mailed via USPS on the date below:

5/14/15

/s/ Wendy B Mills

Date

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

OLD ROW, LLC	§	
	§	
Petitioner,	§	Cancellation No. 92060457
	§	
v.	§	Registration No: 4,541,959
	§	
The Southern Shirt Company, LLC	§	Mark: OLD ROW
	§	
Registrant.	§	

PETITIONER’S FIRST SET OF REQUESTS FOR PRODUCTION

Pursuant to 37 C.F.R. §§ 2.116(a) and 2.120, Fed. R. Civ. P. 33 and TBMP §§ 403.02 and 408.01, Petitioner Old Row, LLC (“Petitioner” or “Old Row”) serves the following First Set of Requests for Production on Registrant The Southern Shirt Company, LLC (“Registrant” or “Southern Shirt”) and requests that Registrant respond fully within thirty (30) days after service. These Requests for Production are deemed to be continuing and pursuant to Fed. R. Civ. P. 26(e), you are under a duty to submit supplemental responses should Registrant or persons associated therewith obtain further information subsequent to the time that Registrant serves responses on Petitioner. Registrant shall serve its responses to these Requests for Production upon counsel for Petitioner as follows:

Wendy B. Mills
KENNEDY LAW, P.C.
1445 Ross Ave.
Suite 4950
Dallas, Texas 75202

DEFINITIONS

For purposes of these Interrogatories and Requests, the terms used herein shall have the following meanings:

1. **“Registrant,” “you,” “your” or “yours”** shall mean and refer to Registrant The Southern Shirt Company, LLC, its present and former divisions, subdivisions, affiliates, parent and subsidiary entities, predecessors in interest or title, successors and any and all related companies (as defined by 15 U.S.C. § 1127); all assumed names, corporate aliases or trade names under which any of the foregoing entities does or has done business; as well as its present and former employees, attorneys, agents, representatives, officers, directors, other present and former personnel, and all other persons or entities acting on behalf of or purporting to act on behalf of The Southern Shirt Company, LLC .
2. **“Southern Shirt”** shall mean and refer to Registrant The Southern Shirt Company, LLC, its present and former divisions, subdivisions, affiliates, parent and subsidiary entities, predecessors in interest or title, successors and any and all related companies (as defined by 15 U.S.C. § 1127); all assumed names, corporate aliases or trade names under which any of the foregoing entities does or has done business; as well as its present and former employees, attorneys, agents, representatives, officers, directors, other present and former personnel, and all other persons or entities acting on behalf of or purporting to act on behalf of The Southern Shirt Company, LLC .
3. **“Petitioner”** shall mean Old Row, LLC, its present and former divisions, subdivisions, affiliates, parent and subsidiary entities, predecessors in interest or title, successors and any and all related companies (as defined by 15 U.S.C. § 1127); all assumed names, corporate aliases or trade names under which any of the foregoing entities does or has done business; as well as its present and former employees, attorneys, agents, representatives, officers, directors, other present and former personnel, and all other persons or entities acting on behalf of or purporting to act on behalf of Old Row, LLC.
4. **“Documents”** means and shall refer to all tangible items upon which information is recorded or stored, whether handwritten, typewritten, printed, or recorded by computerized or electronic means (including back-up data) that is kept, possessed, maintained or controlled by You. The term includes but is not limited to photographs, lithographs, drawings, sketches, specifications, instructions, labels, decals, product packaging, agreements, contracts, requests for proposals, proposals, letters, faxes, telegrams, telexes, memoranda, notices, reports, studies, books, calendar entries, diary entries, appointment books, pamphlets, notes, charts, diagrams, tabulations, agendas, ledgers, checks, bank drafts, bank wires, bills, receipts, expense reports, invoices, purchase orders, records of customs duties, bank drafts, bank statements, financial statements, worksheets, audits, tax returns, governmental filings, permits, licenses, fees, fines, applications, registrations, photocopies, microfilms, tape and disc recordings, emails, websites and webpage data. The term also includes, but is not limited to, summaries, records or reports of

trips, meetings, conferences, telephone calls, voicemails or other conversations or communications, including audio recordings and transcriptions thereof. The term specifically encompasses all versions, drafts, edits and edit histories and document histories of any item encompassed by this definition.

5. **"Entity" or "Entities"** shall mean any partnership(s), corporation(s) or other business organizations.
6. To **"Identify"** means:
 - a) In the case of any document, to identify the names of the author(s), date of authorship, recipient(s), the present location, present custodian and the number of pages of each such document (in lieu of the foregoing, you may number the documents, attach them to your answers and refer to the pertinent document number in your answer);
 - b) In the case of any Person, to identify the name, last known address and, telephone number of the Person;
 - c) In the case of any business entity, to identify the full and correct name of the entity, the type of entity (e.g., corporation, partnership, etc.) and its business address and telephone number.
 - d) In the case of any Communication, state the date, time, place, means (i.e., via email, phone, etc.), all Persons involved in such communication and summarize the content and purpose of the communication.
6. **"Reflect," "refer to," "relate to," and "concerning,"** (or any form thereof) shall mean constituting, comprising, respecting, supporting, contradicting, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating, or relevant to.
7. **"Mark"** shall mean the mark, "OLD ROW" in any form or variation thereof.
8. **"Date"** means the exact day, month and year, if ascertainable, or if not, then your best approximation thereof.
9. **"Person" or "Persons"** refers to natural Persons, corporation, and any other entity including, without limitation, partnerships, firms, ventures and associations and their departments, subsidiaries, directors, officers, owners, members, employees, agents, attorneys or anyone else acting on the Person's or entity's behalf.
10. **"Agreement" or "Contract"** means any and all contractual relationships, including written or oral contracts, and including any and all terms contained in the contract, either explicit or implied.

11. "Communication(s)," includes but is not limited to, telephone conversations, correspondence, memoranda, discussions, emails, faxes, text messages, handwritten notes and reports.

12. "Involve," means having knowledge of the issues being considered, participating in, or contributing ideas or information in a particular function or process.

13. "Cancellation Proceeding" means the above-named and numbered cancellation proceeding before the United States Patent and Trademark Office, Trademark Trial and Appeal Board.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1

Produce all documents that relate to the subject matter of this Cancellation proceeding.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2

Produce copies of complaints or petitions and settlement agreements in any action or proceeding filed by or against Registrant in which allegations relate to intellectual property rights, which necessarily includes without limitation, any matters involving or relating to any trademark(s), copyright(s) and/or patent(s).

RESPONSE:

REQUEST FOR PRODUCTION NO. 3

Produce all oral or written statements made by Registrant concerning this Cancellation proceeding.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4

Produce all documents concerning the creation, consideration, design, development, selection, adoption and first use of the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5

Produce at least one representative specimen of each label, container, trade dress, wrapper, packaging, website, letterhead, sign, publication or directory, brochure or other document used to advertise, promote, sell or otherwise commercialize any of Registrant's products or services bearing or including the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6

Produce all documents that you reviewed or referenced in responding to Interrogatory No. 4 identifying the Person(s) involvement with developing the Mark and explaining the process by which Registrant developed or created the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7

Produce all documents evidencing, referencing or relating to the trademark search that you conducted on the availability for use or registration of the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8

Produce all communications relating to or referencing Petitioner, other than the documents filed in this Cancellation proceeding.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9

Produce all documents relating to or referencing Registrant's awareness or knowledge of Petitioner.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10

Produce all documents evidencing, relating to or referencing the first date that you used the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11

Produce all contracts or agreements that you entered into or executed concerning or referencing the use of the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12

Produce all documents or things evidencing, referencing or relating to Registrant's first sale or distribution of any product or service using or bearing the Mark or in connection therewith.

RESPONSE:

REQUEST FOR PRODUCTION NO. 13

Produce all documents referenced or evidencing your response to Interrogatory No. 13.

RESPONSE:

REQUEST FOR PRODUCTION NO. 14

Produce all communications you received from Petitioner prior to the filing of this Cancellation proceeding and all documents responsive thereto, if any.

RESPONSE:

REQUEST FOR PRODUCTION NO. 15

Produce all documents that evidence, support, reference or relate to all geographic locations where Petitioner has contracted, or plan to contract to have any Person or Entity distribute the products or services bearing the Mark or using the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 16

Produce all documents relating to your marketing and advertising activities, plans or efforts relating to the Mark.

RESPONSE:

REQUEST FOR PRODUCTION NO. 17

Produce all documents evidencing, referring or relating to the media in or through which Petitioner has promoted or advertised the products or services bearing the Mark or using the Mark at issue and their targeted geographic audience since the date of your filing the application for registration of the Mark with the United States Patent and Trademark Office.

RESPONSE:

REQUEST FOR PRODUCTION NO. 18

Produce all communications relating to or concerning Petitioner that you currently have or have had in your possession, custody or control in the last five (5) years.

RESPONSE:

REQUEST FOR PRODUCTION NO. 19

Produce all documents, evidencing, relating or referring to each of the Opposition and/or Cancellation proceedings and lawsuits you referenced in answer to Interrogatory No. 22.

RESPONSE:

REQUEST FOR PRODUCTION NO. 20

Produce all documents evidencing, supporting or relating to your responses to Interrogatory No. 22.

RESPONSE:

Dated: March 12, 2015

Respectfully submitted,

/s/ Wendy B. Mills
Wendy B. Mills
KENNEDY LAW, P.C.
1445 Ross Ave.
Suite 4950
Dallas, Texas 75202
214-716-4343
wmills@saklaw.net
**ATTORNEY FOR
PETITIONER
OLD ROW, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on Bert M. Guy, attorney for Registrant The Southern Shirt Company, LLC, via facsimile on March 12, 2015.

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

OLD ROW, LLC

Petitioner,

v.

The Southern Shirt Company, LLC

Registrant.

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Cancellation No. 92060457

Registration No: 4,541,959

Mark: OLD ROW

PETITIONER’S FIRST SET OF INTERROGATORIES

Pursuant to 37 C.F.R. §§ 2.116(a) and 2.120, Fed. R. Civ. P. 33 and TBMP §§ 403.02 and 408.01, Petitioner Old Row, LLC (“Petitioner” or “Old Row”) serves the following First Set of Interrogatories on Registrant The Southern Shirt Company, LLC (“Registrant” or “Southern Shirt”) and requests that Registrant respond fully and separately in writing under oath by a duly authorized officer or agent within thirty (30) days after service. These Interrogatories are deemed to be continuing and pursuant to Fed. R. Civ. P. 26(e), you are under a duty to submit supplemental responses should Registrant or persons associated therewith obtain further information subsequent to the time that Registrant serves responses on Petitioner. Registrant shall serve its responses to the Interrogatories upon counsel for Petitioner as follows:

Wendy B. Mills
KENNEDY LAW, P.C.
1445 Ross Ave.
Suite 4950
Dallas, Texas 75202

DEFINITIONS

For purposes of these Interrogatories and Requests, the terms used herein shall have the following meanings:

1. **“Registrant,” “you,” “your” or “yours”** shall mean and refer to Registrant The Southern Shirt Company, LLC, its present and former divisions, subdivisions, affiliates, parent and subsidiary entities, predecessors in interest or title, successors and any and all related companies (as defined by 15 U.S.C. § 1127); all assumed names, corporate aliases or trade names under which any of the foregoing entities does or has done business; as well as its present and former employees, attorneys, agents, representatives, officers, directors, other present and former personnel, and all other persons or entities acting on behalf of or purporting to act on behalf of The Southern Shirt Company, LLC .
2. **“Southern Shirt”** shall mean and refer to Registrant The Southern Shirt Company, LLC, its present and former divisions, subdivisions, affiliates, parent and subsidiary entities, predecessors in interest or title, successors and any and all related companies (as defined by 15 U.S.C. § 1127); all assumed names, corporate aliases or trade names under which any of the foregoing entities does or has done business; as well as its present and former employees, attorneys, agents, representatives, officers, directors, other present and former personnel, and all other persons or entities acting on behalf of or purporting to act on behalf of The Southern Shirt Company, LLC .
3. **"Documents"** means and shall refer to all tangible items upon which information is recorded or stored, whether handwritten, typewritten, printed, or recorded by computerized or electronic means (including back-up data) that is kept, possessed, maintained or controlled by You. The term includes but is not limited to photographs, lithographs, drawings, sketches, specifications, instructions, labels, decals, product packaging, agreements, contracts, requests for proposals, proposals, letters, faxes, telegrams, telexes, memoranda, notices, reports, studies, books, calendar entries, diary entries, appointment books, pamphlets, notes, charts, diagrams, tabulations, agendas, ledgers, checks, bank drafts, bank wires, bills, receipts, expense reports, invoices, purchase orders, records of customs duties, bank drafts, bank statements, financial statements, worksheets, audits, tax returns, governmental filings, permits, licenses, fees, fines, applications, registrations, photocopies, microfilms, tape and disc recordings, emails, websites and webpage data. The term also includes, but is not limited to, summaries, records or reports of trips, meetings, conferences, telephone calls, voicemails or other conversations or communications, including audio recordings and transcriptions thereof. The term specifically encompasses all versions, drafts, edits and edit histories and document histories of any item encompassed by this definition.
4. **"Entity" or "Entities"** shall mean any partnership(s), corporation(s) or other business organizations.
5. To **"Identify"** means:

a) In the case of any document, to identify the names of the author(s), date of authorship, recipient(s), the present location, present custodian and the number of pages of each such document (in lieu of the foregoing, you may number the documents, attach them to your answers and refer to the pertinent document number in your answer);

b) In the case of any Person, to identify the name, last known address and, telephone number of the Person;

c) In the case of any business entity, to identify the full and correct name of the entity, the type of entity (e.g., corporation, partnership, etc.) and its business address and telephone number.

d) In the case of any Communication, state the date, time, place, means (i.e., via email, phone, etc.), all Persons involved in such communication and summarize the content and purpose of the communication.

6. "Reflect," "refer to," "relate to," and "concerning," (or any form thereof) shall mean constituting, comprising, respecting, supporting, contradicting, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating, or relevant to.

7. "Mark" shall mean the mark, "OLD ROW" in any form or variation thereof.

8. "Date" means the exact day, month and year, if ascertainable, or if not, then your best approximation thereof.

9. "Person" or "Persons" refers to natural Persons, corporation, and any other entity including, without limitation, partnerships, firms, ventures and associations and their departments, subsidiaries, directors, officers, owners, members, employees, agents, attorneys or anyone else acting on the Person's or entity's behalf.

10. "Agreement" or "Contract" means any and all contractual relationships, including written or oral contracts, and including any and all terms contained in the contract, either explicit or implied.

11. "Communication(s)," includes but is not limited to, telephone conversations, correspondence, memoranda, discussions, emails, faxes, text messages, handwritten notes and reports.

12. "Involve," means having knowledge of the issues being considered, participating in, or contributing ideas or information in a particular function or process.

INTERROGATORY NO. 1

Identify each Person answering these interrogatories, supplying information or assisting in any way with the preparation of the answers to these interrogatories.

ANSWER:

INTERROGATORY NO. 2

Identify all Persons that have possession, control or custody of documents relevant to this Cancellation proceeding; and identify the documents over which they have possession, control or custody.

ANSWER:

INTERROGATORY NO. 3

For any statements that have been taken from Registrant or taken on their behalf, relating to the facts that are the subject of this Cancellation proceeding, please state the following:

- a. The identity of the Person who gave or made the statement.
- b. The substance of the statement.
- c. The date when the statement was taken.
- d. The identity of the Person who took the statement.
- e. Whether the statement was reduced to writing.
- f. The present location of the statement and the identity of the Person now in possession of the statement.

ANSWER:

INTERROGATORY NO. 4

Identify the Person(s) involved with developing the Mark and explain in detail, the process by which Registrant developed or created the Mark.

ANSWER:

INTERROGATORY NO. 5

Describe each search conducted on the availability for use or registration of the Mark, including without limitation the dates upon which such search(s) were conducted.

ANSWER:

INTERROGATORY NO. 6

Identify the Person and/or Entity who conducted the search on the availability of the Mark

ANSWER:

INTERROGATORY NO. 7

Specify the date and the details of Registrant's first awareness of Petitioner.

ANSWER:

INTERROGATORY NO. 8

State the first date that you used the Mark and identify or describe where and how you used the Mark.

ANSWER:

INTERROGATORY NO. 9

Identify the date that Registrant discovered that Petitioner used the Mark and explain the circumstances of such discovery.

ANSWER:

INTERROGATORY NO. 10

Identify any communications to which you have been a party concerning Petitioner's rights or claims to rights in the Mark.

ANSWER:

INTERROGATORY NO. 11

Identify any Agreement or Contract that you have concerning or referencing the use of the Mark.

ANSWER:

INTERROGATORY NO. 12

State the date that Registrant first sold or distributed any product or service using the Mark or in connection therewith; and identify the Person(s) to whom same was sold or bartered.

ANSWER:

INTERROGATORY NO. 13

Identify Registrant's efforts to sell products or services using the Mark or in connection therewith, including, without limitation, clothing bearing the Mark, specifically:

- a. identify each Person with whom Petitioner has contracted to distribute, sell or transfer such products or services;
- b. describe with particularity the documents, contracts or agreements used by Petitioner in its original efforts to sell, distribute or transfer such products or services;
- c. describe with particularity any instance(s) in which Petitioner represented to any Person(s) or Entity that it was associated with, affiliated with or represented Registrant;

ANSWER:

INTERROGATORY NO. 14

Explain in detail the first time that You viewed Petitioner's Twitter page and/or feed, website or other social media.

ANSWER:

INTERROGATORY NO. 15

Identify each Contract entered into by Petitioner and any Person or Entity for the purpose of licensing the Mark.

ANSWER:

INTERROGATORY NO. 16

Identify all geographic locations where Petitioner has to date contracted to have any Person or Entity distribute the products or services bearing the Mark or using the Mark; and identify the geographic locations where any of the products or services bearing the Mark or using the Mark at issue have been distributed; and any plans for expansion.

ANSWER:

INTERROGATORY NO. 17

Identify the media in or through which Petitioner has promoted or advertised the products or services bearing the Mark or using the Mark at issue and their targeted geographic audience since the date of Your filing the application for registration of the Mark with the United States Patent and Trademark Office.

ANSWER:

INTERROGATORY NO. 18

Identify any Person or Entity with whom You have had communications relating to or concerning Petitioner.

ANSWER:

INTERROGATORY NO. 19

Identify all trademarks comprised of or including the term, "OLD ROW" used at any time by Registrant, or any authorized person, franchisee, licensee, or Entity associated with or affiliated with Registrant, and for each name or Mark listed, separately identify all applications for registration filed with any governmental or quasi-governmental entity that have been or are owned by Registrant.

ANSWER:

INTERROGATORY NO. 20

For the Marks provided in Answer to Interrogatory 21, identify each Mark that has ever been or is presently the subject of an Opposition or Cancellation proceeding with the United States Patent and Trademark Office and any lawsuit filed in any Court for trademark infringement, unfair competition or related causes of action.

ANSWER:

INTERROGATORY NO. 21

For each of the Opposition and/or Cancellation proceedings and lawsuits provided in answer to Interrogatory 22, explain in detail the basis for each of the Opposition or Cancellation proceedings and lawsuits and the status thereof.

ANSWER:

INTERROGATORY NO. 22

Explain in detail the factual basis for each of Your Affirmative Defenses in Your Answer to Petition to Cancel Trademark Registration No. 4541959, specifically, what facts that You assert support the following affirmative defenses:

- a. “The Petition to Cancel fails to state a claim upon which relief can be granted”;
- b. “Defendant claims prior use of the Registered Mark “OLD ROW;” and
- c. “There is no likelihood of confusion, mistake or deception, because *inter alia*, Defendant’s mark and Plaintiff’s purported website are not confusingly similar.”
- d. “Defendant avers that Plaintiff’s claims are barred due to laches.”

ANSWER:

INTERROGATORY NO. 23

Identify all documents You produced or will produce in response to Petitioner’s First Set of Requests for Production.

ANSWER:

Dated: March 12, 2015

Respectfully submitted,

/s/Wendy B. Mills
Wendy B. Mills
KENNEDY LAW, P.C.
1445 Ross Ave.
Suite 4950
Dallas, Texas 75202
214-716-4343
wmills@saklaw.net
**ATTORNEY FOR
PETITIONER
OLD ROW, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on Bert M. Guy, attorney for Registrant The Southern Shirt Company, LLC, via facsimile on March 12, 2015.