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

Proceeding	92068467
Party	Plaintiff U.G.A. Nutraceuticals SRL
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Submission	Motion to Compel Discovery or Disclosure
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Signature	/s/ Daniel S. Tyler
Date	11/19/2020
Attachments	UGA Motion to Compel-Final.pdf(31875 bytes) Ex A - 1st RFDs to Def-Registrant.pdf(37182 bytes) Ex B - Registrants Responses to First Set of RFPs.pdf(124549 bytes) Ex C - RE_ U.G.A. Nutraceuticals SRL v Maple Mountain Group, Inc. - C cancellation No. 92068467.pdf(177411 bytes) Ex D - 1st Amended RFDs to Def-Registrant.pdf(33474 bytes) Ex E - Registrants Responses to Amended First Set of Requests.pdf(212685 bytes) Ex F - Re_ Correspondence.pdf(494624 bytes) Ex G - U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Ne ways, Inc re the mark CARDIOL.pdf(241507 bytes) Ex H - RE_ U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fk a Ne ways, Inc re the mark CARDIOL.pdf(410430 bytes)

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

U.G.A. NUTRACEUTICALS, SRL,

Petitioner,

v.

MAPLE MOUNTAIN GROUP, INC.,
f/k/a NEWAYS, INC.

Registrant.

Proceeding No.: 9206847

Mark: CARDIOL

Registration No.: 2,693,218

PETITIONER'S MOTION TO COMPEL RESPONSES TO
WRITTEN DISCOVERY

Pursuant to 37 C.F.R. § 2.120(e), TBMP § 523, *et seq.* and Federal Rule of Civil Procedure 37, Petitioner, U.G.A. Nutraceuticals, SRL (“Petitioner”), hereby moves the Board to issue an order compelling the Registrant, Maple Mountain Group, Inc. (“Registrant”), to respond to Requests for Production of Documents issued during the discovery period in this case. Petitioner submits that it has made a good faith effort to attempt to meet and confer as to these outstanding document requests, but no commitment to production or response of any kind has been received from Registrant. Having received no communication whatsoever from the Registrant regarding the specific production of documents concerning the central issue of the case – documents that evidence use or intent to use on behalf of the Registrant - to overdue discovery requests before the close of the discovery period, Petitioner has no choice but to seek relief from the Board to compel disclosure to allow Petitioner the opportunity to collect evidence and prepare its case. Petitioner respectfully shows as follows:

I. Factual Background

Petitioner issued its Requests for Documents to Registrant on March 25, 2019. *See* Exhibit A, Request for Documents issued to Registrant on 03/25/2019. These requests consisted of 34 individual categories of documents. On April 24, 2019, Registrant served its responses to Petitioner's request. *See* Exhibit B, Responses to Petitioner's First Set of Requests for Production issued by Registrant on 04/24/2019. However, Registrant's responses were no responses at all. Objecting the same to *each and every request*, Registrant refused to answer or produce documents on the same basis: "Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e)." *Id.* at Responses 1-34. Registrant further included its own calculations of what it believed to be countable subparts of each request, the sum of which it claimed falls above Board rules.

Petitioner believes that these across-the-board objections and refusal to answer as required constitutes a deliberate attempt at avoiding participation in discovery. As such, Petitioner raised the issue with Registrant's counsel on May 5, 2019 and requested a meet and confer conference to discuss Registrant's refusal to answer. *See* Exhibit C, May 5, 2019 email to Registrant. The parties held a meet and confer conference via telephone on May 17, 2019. Registrant maintained its position that the Board would agree with its calculation and stood by its blanket objection. Rather than immediately rushing to file a compel motion at that time, Petitioner served an Amended First Set of Requests for Production on August 12, 2019 to adjust the request language in no uncertain terms to placate Registrant's blanket objections. *See* Exhibit D, Amended First Requests for Production issued to Registrant on 08/12/2019. After Registrant requested and Petitioner agreed to a thirty day extension of time in which to answer Petitioner's Amended First Requests for

Production, Registrant served its responses to Petitioner's Amended First Set of Requests for Production on October 11, 2019. *See* Exhibit E, Registrant's Responses to Petitioners Amended First Set of Requests for Production, dated 10/11/2019. This time Registrant did offer responses, although generic and non-specific. Following a laundry list of general and specific objections to each request, Registrant answered seemingly every request in the same fashion: "Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request." *Id.* at Responses 1-34. Registrant did *not* include any documents as part of its October 11, 2019 responses to written discovery.

After nearly five months of Registrant's failure to produce any documents responsive to Petitioner's requests, Petitioner emailed Registrant's counsel on March 7, 2020 to request a meet and confer conference to discuss Registrant's delinquent production. *See* Exhibit F – Email to Registrant dated 03/07/2020.¹ Petitioner's counsel received no response to this request. Following Registrant's own request for a meet and confer on Registrant's separate objections to Petitioner's interrogatory responses, a meet and confer was held between the parties on April 30, 2020. Registrant's counsel indicated that she would "try to produce documents next week." *See* Exhibit G – Email to Petitioner dated 04/30/2020. A paralegal in Registrant's counsel's office sent an email attaching Registrant's document production on May 16, 2020; however, due to the unknown status of the paralegal's email address, that email was quarantined and never reached Petitioner's counsel. Upon further inquiry between counsel, the error was realized and the documents were finally resent and received on July 31, 2020. *See* Exhibit H – Email to Petitioner dated July 30, 2020.

¹ Petitioner produced its own documents to Registrant on March 6, 2020.

Once Petitioner was finally able to review Registrant's responsive documents, it was clear that Registrant has produced a total of 17 documents making up 183 pages, consisting almost exclusively of publicly available documents related to the prosecution and assignment of the trademark. *No documents* were produced that were responsive to Petitioner's requests concerning current and past use, or intent to use (the central issue to this case). Counsel for Petitioner raised this issue with counsel for Registrant on a July 31, 2020 meet and confer conference via telephone. To date, counsel for Registrant has not provided any meaningful response, certification of completeness, or indications that documents were withheld for any given reason despite Petitioner's request for production of documents that are clearly responsive to numerous requests: documents concerning Registrant's use or intend to use the mark at issue in this case. Because Registrant has failed to give any indication as to when its responses to discovery can be expected, and considering Registrant's history of delinquent conduct and gamesmanship throughout the handling of this matter, Petitioner brings forth this Motion to Compel.

II. Argument

37 C.F.R. § 2.120(e) provides that “[i]f a party...fails to answer...any interrogatory, or fails to produce and permit the inspection and copying of any document or thing, the party entitled to disclosure or seeking discovery may file a motion to compel[.]” *See also* TBMP § 523.01, Note 1 (“In inter partes proceedings before the Board, a motion to compel is available in the event of a failure to provide required disclosures or discovery requested by means of discovery depositions, interrogatories, and requests for production of documents and things.”). In this matter, Registrant has failed to provide full responses to Requests for Documents issued on March 25, 2019 and again on August 12, 2019. Additionally, Registrant has failed to provide any indication on when it expects to supplement its production, or in the alternative, certify that its production is complete

in response to attempts to resolve this dispute between the parties. Having received no documents concerning Registrants past and current use, or intent to resume use, and having heard nothing substantive from Registrant, Petitioner must seek relief from the Board to move this case forward.

Petitioner’s Certification of Good Faith Attempt to Resolve the Issues Presented

Petitioner certifies that it has made a good faith effort to attempt to meet and confer as to these outstanding written discovery responses, but no substantive response of any kind has been received from Registrant. 37 C.F.R. § 2.120(e)(1); Fed. R. Civ. P. 37(a)(1).

CONCLUSION

For these reasons, having met all special requirements for filing a motion to compel, *see* TBMP § 523.02, Petitioner requests that the Board issue an Order: 1.) directing Registrant to submit full responses to the Requests for Production issued by Petitioner on August 12, 2019; 2.) in the alternative, Petitioner requests that the Board issue an Order directing Registrant to certify that its document production is complete to serve as a bar from introducing additional documents after the close of discovery; and 3.) any such further relief as deemed just.

November 19, 2020

Respectfully submitted,

/s/ Daniel S. Tyler
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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2020, a true and correct copy of the foregoing was served by via electronic mail on all counsel or parties of record on the Service List below:

John C. Stringham
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/s/ Daniel S. Tyler

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

U.G.A. NUTRACEUTICALS, SRL,

Petitioner,

v.

MAPLE MOUNTAIN GROUP, INC.,
f/k/a NEWAYS, INC.

Registrant.

Proceeding No.: 9206847

Mark: CARDIOL

Registration No.: 2,693,218

**PETITIONER'S FIRST SET OF
REQUESTS FOR PRODUCTION ISSUED TO REGISTRANT**

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 34 of the Federal Rules of Civil Procedure, Petitioner U.G.A. Nutraceuticals, SRL (“Petitioner” or “U.G.A.”) requests that Registrant Maple Mountain Group, Inc., formerly known as Neways, Inc. (“Registrant”), produce copies of the documents within thirty (30) days of these Requests by mailing or electronically transmitting the requested documents to the undersigned on or before the date of production. The definitions set forth in the Instructions and Definitions of Applicant’s First Set of Interrogatories shall be applicable hereto and are incorporated herein by reference.

INSTRUCTIONS

A. To the extent that you withhold information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, you must: (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable Applicant to assess the claim.

B. If you object to any request, you must state whether any responsive materials are being withheld on the basis of that objection. Fed. R. Civ. P. 34(b)(2)(C).

C. These Requests for Production are continuing in nature. Fed. R. Civ. P. 26(e).

REQUESTS FOR PRODUCTION

Please produce:

DOCUMENT REQUEST NO. 1:

All Documents identified or described in Registrant's Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(A).

DOCUMENT REQUEST NO. 2:

All Documents identified in your response to U.G.A.'s First Set of Interrogatories to Registrant (issued contemporaneously with these Requests).

DOCUMENT REQUEST NO. 3:

All Documents concerning every federal trademark or service mark application or registration obtained by (or sought to be obtained by) Registrant for each of Registrant's marks, including copies of all documents submitted to or received from the United States Patent and Trademark Office in connection therewith.

DOCUMENT REQUEST NO. 4:

All Documents concerning and supporting the First Affirmative Defense stated in Registrant's Amended Answer, that Registrant "has used and is currently using the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration, and as such, has not abandoned the same."

DOCUMENT REQUEST NO. 5:

All Documents concerning and supporting the Second Affirmative Defense stated in Registrant's Amended Answer, stating that Registrant "has used the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration in interstate commerce[.]"

DOCUMENT REQUEST NO. 6:

All Documents concerning Registrant's knowledge of U.G.A.'s adoption, use, or trademark application (Application Serial No. 79/218,713) with respect to the mark CARDIOL, including all Documents reflecting communications about or with Petitioner.

DOCUMENT REQUEST NO. 7:

Documents sufficient to identify all goods and services actually sold, offered, or licensed by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 8:

Documents sufficient to show any planned or future development of any goods or services to be sold, offered, or licensed in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 9:

Documents sufficient to identify all channels of trade through which Registrant advertises, promotes, distributes, sells, offers, or licenses, or plans or intends to advertise, promote, distribute, sell, offer, or license, any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, documents identifying the distributors, retail, or other business outlets that offer or will offer Registrant's goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 10:

Documents sufficient to identify each price at which Registrant has marketed, sold, offered, distributed or licensed any goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 11:

All Documents concerning the development, manufacturing, labeling, packaging, marketing, sale, distribution, of any "Health and Nutritional Supplement" products sold by Registrant that bear Registrant's 2,693,218 CARDIOL Mark as a mark, tagline or source identifier.

DOCUMENT REQUEST NO. 12:

All Documents concerning the development, manufacturing, labeling, packaging, marketing, sale, distribution, of any of any products that bear the term "CARDIOL" as a mark, tagline or source identifier.

DOCUMENT REQUEST NO. 13:

Documents sufficient to show the volume (in dollars and units) of annual sales of all goods or services sold or licensed, directly or indirectly, by or on behalf of Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark for each of the last ten (10) years.

DOCUMENT REQUEST NO. 14:

Documents sufficient to show, for each of the last ten (10) years, all costs and expenses incurred annually by Registrant to promote, market and advertise goods or services actually or planned or intended to be sold, offered, distributed or licensed under or in connection with Registrant's 2,693,218 CARDIOL Mark for each of the last ten (10) years.

DOCUMENT REQUEST NO. 15:

Documents sufficient to describe the actual and target purchasers of goods or services actually or planned or intended to be sold, offered, or licensed by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 16:

All Documents relied upon by Registrant in drafting the Answer.

DOCUMENT REQUEST NO. 17:

All Documents identifying all persons who were responsible for, participated in, or have information or were consulted concerning the consideration, selection, conception, creation or adoption of any use of the mark CARDIOL for use on or in connection with any of Registrant's goods or services.

DOCUMENT REQUEST NO. 18:

All Documents concerning Registrant's first use of the mark CARDIOL anywhere in the United States.

DOCUMENT REQUEST NO. 19:

All Documents concerning Registrant's first use of the mark CARDIOL in United States commerce.

DOCUMENT REQUEST NO. 20:

All Documents concerning Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, all Documents concerning the decision to file the application for said Mark and copies of all documents submitted to or received from the United States Patent and Trademark Office in connection with the application and registration of said Mark.

DOCUMENT REQUEST NO. 21:

All Documents concerning any state trademark registrations sought or obtained by Registrant for the CARDIOL mark, including, but not limited to, copies of all documents submitted to or received from any state trademark registration agency.

DOCUMENT REQUEST NO. 22:

Documents sufficient to identify the geographic regions in the United States in which Registrant has or has caused to be advertised, promoted, marketed, displayed, distributed, sold, offered or licensed, or plans or intends to advertise, promote, market, display, distribute, sell, offer or license, any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 23:

A representative sample of all products, packaging and other advertising, promotional, marketing, display and sales materials that bear or include Registrant's 2,693,218 CARDIOL Mark that Registrant has used, does use or intends or has plans to use, for or in connection with the advertising, promotion, marketing, distribution, sale, offer or licensing of any goods or services (including, but not limited to, all logos, tags, labels, packaging, signs, displays, brochures, flyers, catalogs, print, radio, television and internet advertising and in-store point-of-sale promotional materials).

DOCUMENT REQUEST NO. 24:

All newspaper, magazine, newsletter, trade journal, website or other media coverage, in any form or medium (print, electronic or other), of any use or intended use of Registrant's 2,693,218 CARDIOL Mark, whether or not authored by any official member of the press.

DOCUMENT REQUEST NO. 25:

All Documents concerning or identifying any person to or with whom Registrant has marketed, sold, offered, distributed or licensed, or intends to market, sell, offer, distribute or license any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 26:

All Documents concerning any graphic, package, product or other designers contacted or engaged by Registrant with respect to the preparation of any materials bearing or otherwise using Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 27:

Copies of all trademark searches, trademark clearances, internet print-outs and other inquiries conducted by or on behalf of Registrant concerning the availability to use or register Registrant's 2,693,218 CARDIOL Mark, and all correspondence and other Documents relating thereto.

DOCUMENT REQUEST NO. 28:

All Documents concerning any complaint, petition, demand, objection, administrative proceeding or civil action relating to Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 29:

All Documents concerning any complaint, petition, demand, objection, administrative proceeding or civil action made by or against Registrant in which any trademark, trade dress, dilution, unfair competition, copyright or domain name claims were asserted.

DOCUMENT REQUEST NO. 30:

All Documents concerning any consumer or other complaints or governmental, National Advertising Division (NAD), industry or other investigations related to the goods or services sold, offered, distributed or licensed by Registrant under or in connection with the Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 31:

All Documents concerning Registrant's marketing or advertising directed at anyone in the Petitioner's trade or industry.

DOCUMENT REQUEST NO. 32:

All agreements between or among Registrant and any other person involving the actual, planned or intended manufacture, advertisement, promotion, marketing, distribution, sale, offer or licensing of any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 33:

Documents sufficient to identify all third parties that did, do or will manufacture, sell, offer, distribute or license goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 34:

Every cease and desist request or demand Registrant has ever sent, served, or submitted concerning or mentioning the CARDIOL mark.

March 25, 2019

Respectfully submitted,

/s/ Daniel S. Tyler

DANIEL S. TYLER

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100 S. WACKER DRIVE, SUITE 2000

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Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2019, a true and correct copy of the foregoing was served by via electronic mail on all counsel or parties of record on the Service List below:

John C. Stringham
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/s/ Daniel S. Tyler

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

In the matter of Trademark Registration Serial No. 2,693,218
Registered: March 4, 2003
Mark: CARDIOL

<p>U.G.A. NUTRACEUTICALS SRL, Petitioner, v. MAPLE MOUNTAIN GROUP, INC., f/k/a NEWAYS, INC. Registrant.</p>	<p>Cancellation No. 92068467 REGISTRANT'S RESPONSES TO PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION</p>
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Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 34 of the Federal Rules of Civil Procedure, Registrant Maple Mountain Group, Inc., formerly known as Neways, Inc. ("Registrant") hereby submits the following Responses to Petitioner's First Set of Requests for Production propounded by Petitioner U.G.A. Nutraceuticals SRL ("Petitioner" or "U.G.A.") in the above-captioned Action as follows:

GENERAL OBJECTIONS

The General Objections and Definitions of Specific Objections recited in Registrant's Responses to Petitioner's First Set of Interrogatories to Registrant are incorporated herein by reference.

RESPONSES TO REQUEST FOR PRODUCTION

REQUEST NO. 1:

All Documents identified or described in Registrant's Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(A).

RESPONSE:

Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 2:

All Documents identified in your response to U.G.A.'s First Set of Interrogatories to Registrant (issued contemporaneously with these Requests).

RESPONSE:

Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 3:

All Documents concerning every federal trademark or service mark application or registration obtained by (or sought to be obtained by) Registrant for each of Registrant's marks, including copies of all documents submitted to or received from the United States Patent and Trademark Office in connection therewith.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least three (3) separate requests, each of which count

against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 4:

All Documents concerning and supporting the First Affirmative Defense stated in Registrant's Amended Answer, that Registrant "has used and is currently using the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration, and as such, has not abandoned the same."

RESPONSE:

Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 5:

All Documents concerning and supporting the Second Affirmative Defense stated in Registrant's Amended Answer, stating that Registrant "has used the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration in interstate commerce[.]"

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least two (2) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 6:

All Documents concerning Registrant's knowledge of U.G.A.'s adoption, use, or trademark application (Application Serial No. 79/218,713) with respect to the mark CARDIOL, including all Documents reflecting communications about or with Petitioner.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 7:

Documents sufficient to identify all goods and services actually sold, offered, or licensed by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least three (3) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 8:

Documents sufficient to show any planned or future development of any goods or services to be sold, offered, or licensed in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least three (3) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 9:

Documents sufficient to identify all channels of trade through which Registrant advertises, promotes, distributes, sells, offers, or licenses, or plans or intends to advertise, promote, distribute, sell, offer, or license, any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, documents identifying the distributors, retail, or other business outlets that offer or will offer Registrant's goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least eight (8) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 10:

Documents sufficient to identify each price at which Registrant has marketed, sold, offered, distributed or licensed any goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 11:

All Documents concerning the development, manufacturing, labeling, packaging, marketing, sale, distribution, of any "Health and Nutritional Supplement" products sold by Registrant that bear Registrant's 2,693,218 CARDIOL Mark as a mark, tagline or source identifier.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least nine (9) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 12:

All Documents concerning the development, manufacturing, labeling, packaging, marketing, sale, distribution, of any of any products that bear the term "CARDIOL" as a mark, tagline or source identifier

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least ten (10) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 13:

Documents sufficient to show the volume (in dollars and units) of annual sales of all goods or services sold or licensed, directly or indirectly, by or on behalf of Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark for each of the last ten (10) years.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 14:

Documents sufficient to show, for each of the last ten (10) years, all costs and expenses incurred annually by Registrant to promote, market and advertise goods or services actually or planned or intended to be sold, offered, distributed or licensed under or in connection with Registrant's 2,693,218 CARDIOL Mark for each of the last ten (10) years.

RESPONSE:

Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 15:

Documents sufficient to describe the actual and target purchasers of goods or services actually or planned or intended to be sold, offered, or licensed by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least two (2) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 16:

All Documents relied upon by Registrant in drafting the Answer.

RESPONSE:

Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 17:

All Documents identifying all persons who were responsible for, participated in, or have information or were consulted concerning the consideration, selection, conception, creation or

adoption of any use of the mark CARDIOL for use on or in connection with any of Registrant's goods or services.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least eight (8) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 18:

All Documents concerning Registrant's first use of the mark CARDIOL anywhere in the United States.

RESPONSE:

Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 19:

All Documents concerning Registrant's first use of the mark CARDIOL in United States commerce.

RESPONSE:

Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 20:

All Documents concerning Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, all Documents concerning the decision to file the application for said Mark and copies of all documents submitted to or received from the United States Patent and Trademark Office in connection with the application and registration of said Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least three (3) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 21:

All Documents concerning any state trademark registrations sought or obtained by Registrant for the CARDIOL mark, including, but not limited to, copies of all documents submitted to or received from any state trademark registration agency.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least two (2) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 22:

Documents sufficient to identify the geographic regions in the United States in which Registrant has or has caused to be advertised, promoted, marketed, displayed, distributed, sold, offered or licensed, or plans or intends to advertise, promote, market, display, distribute, sell, offer or license, any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least five (5) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 23:

A representative sample of all products, packaging and other advertising, promotional, marketing, display and sales materials that bear or include Registrant's 2,693,218 CARDIOL Mark that Registrant has used, does use or intends or has plans to use, for or in connection with the advertising, promotion, marketing, distribution, sale, offer or licensing of any goods or services (including, but not limited to, all logos, tags, labels, packaging, signs, displays, brochures, flyers, catalogs, print, radio, television and internet advertising and in-store point-of-sale promotional materials).

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least eighteen (18) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request

propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 24:

All newspaper, magazine, newsletter, trade journal, website or other media coverage, in any form or medium (print, electronic or other), of any use or intended use of Registrant's 2,693,218 CARDIOL Mark, whether or not authored by any official member of the press.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least six (6) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 25:

All Documents concerning or identifying any person to or with whom Registrant has marketed, sold, offered, distributed or licensed, or intends to market, sell, offer, distribute or license any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 26:

All Documents concerning any graphic, package, product or other designers contacted or engaged by Registrant with respect to the preparation of any materials bearing or otherwise using Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 27:

Copies of all trademark searches, trademark clearances, internet print-outs and other inquiries conducted by or on behalf of Registrant concerning the availability to use or register Registrant's 2,693,218 CARDIOL Mark, and all correspondence and other Documents relating thereto.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least seven (7) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 28:

All Documents concerning any complaint, petition, demand, objection, administrative proceeding or civil action relating to Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least five (5) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 29:

All Documents concerning any complaint, petition, demand, objection, administrative proceeding or civil action made by or against Registrant in which any trademark, trade dress, dilution, unfair competition, copyright or domain name claims were asserted.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least eleven (11) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 30:

All Documents concerning any consumer or other complaints or governmental, National Advertising Division (NAD), industry or other investigations related to the goods or services sold, offered, distributed or licensed by Registrant under or in connection with the Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least nine (9) separate requests, each of which count

against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 31:

All Documents concerning Registrant's marketing or advertising directed at anyone in the Petitioner's trade or industry.

RESPONSE:

Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 32:

All agreements between or among Registrant and any other person involving the actual, planned or intended manufacture, advertisement, promotion, marketing, distribution, sale, offer or licensing of any goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least six (6) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

REQUEST NO. 33:

Documents sufficient to identify all third parties that did, do or will manufacture, sell, offer, distribute or license goods or services under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least four (4) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e). Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege.

REQUEST NO. 34:

Every cease and desist request or demand Registrant has ever sent, served, or submitted concerning or mentioning the CARDIOL mark.

RESPONSE:

Registrant objects to this Request on the grounds that it contains discrete subparts. Specifically, this Request is comprised of at least three (3) separate requests, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to each Request propounded to Registrant in this First Set of Request for Documents, as Petitioner's total number of Requests exceeds the 75 requests permitted pursuant to TBMP 405.05(a) and 37 CFR § 2.120(e).

DATED this 24th day of April, 2019.

Respectfully submitted,

/Robyn L. Phillips/

John C. Stringham, Reg. No. 40,831

Robyn L. Phillips, Reg. No. 39,330

WORKMAN NYDEGGER

60 East South Temple, Suite 1000

Salt Lake City, Utah 84111

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jstringham@wnlaw.com

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ATTORNEYS FOR REGISTRANT
MAPLE MOUNTAIN GROUP, INC.
f/k/a NEWAYS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **REGISTRANT'S RESPONSES TO PETITIONER'S FIRST SET OF REQUESTS FOR PRODUCTION** has been served on this 24th day of April, 2019, via email to the following counsel of record for Petitioner:

Daniel S. Tyler
AMIN TALATI UPADHYE, LLP
100 S. Wacker Dr., Suite 2000
Chicago, IL 60606
trademark@amintalati.com
daniel@amintalati.com
jennifer.colkitt@amintalati.com

/Robyn L. Phillips/_____
Robyn L. Phillips

From: [Daniel Tyler](#)
To: ["Shellie C. Courdy"](#)
Cc: [John C. Stringham](#); [Rachelle L. Turner](#); [Robyn L. Phillips](#)
Subject: RE: U.G.A. Nutraceuticals SRL v Maple Mountain Group, Inc. - Cancellation No. 92068467 [IWOV-1.FID1959308]
Date: Thursday, May 9, 2019 1:03:26 PM
Attachments: [image008.png](#)
[image005.png](#)

Robyn / John,

I have been caught up on other matters for much of the past few weeks – I apologize for the delay. With respect to your letter, I would like to request a short extension of time in which to answer your discovery requests. As you know, my client is an Italian entity which makes communication especially difficult. Moreover, I was out of the country for two weeks last month on spring break vacation. I suspect to be able to have meaningful responses ready for service in the near future.

That leads me to your responses to our discovery requests. Your blanket objections and failure to provide any substantive responses are unacceptable. Admittedly, *some* of our requests contain subparts. However, your obvious attempt at using each and every word of a particular request that addresses the same topic of inquiry for the blatant purpose of expanding the “number of requests” is meritless. The Board will clearly see this diversionary tactic as a frivolous attempt to avoid participation in discovery. I would be happy to place our objections to your responses in writing, but I feel this can be best addressed in a meet and confer on the issue.

I am available all day tomorrow to discuss the above. Please advise if you have time available.

Best regards,

Dan Tyler



Daniel S. Tyler
[Website](#) | [About Us](#) | [Bio](#)

312.784-1061 **DIRECT**
312.466.1033 **OFFICE**
312.884.7352 **FAX**

100 S. Wacker Dr.
Suite 2000
Chicago, IL 60606





NOTE: THE INFORMATION CONTAINED IN THIS EMAIL MESSAGE MAY CONTAIN ATTORNEY - CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AT 312.466.1033.

From: Shellie C. Courdy [mailto:SCourdy@WNLaw.com]
Sent: Thursday, May 9, 2019 12:51 PM
To: Daniel Tyler <daniel@amintalati.com>
Cc: John C. Stringham <JStringham@WNLaw.com>; Rachelle L. Turner <RTurner@WNLaw.com>; Robyn L. Phillips <RPhillips@WNLaw.com>
Subject: U.G.A. Nutraceuticals SRL v Maple Mountain Group, Inc. - Cancellation No. 92068467 [IWOV-1.FID1959308]

Dear Mr. Tyler-

Please find attached correspondence from Robyn L. Phillips regarding the above-identified cancellation proceeding. If you have any questions regarding this matter, please contact Ms. Phillips.

Thank you.

SHELLIE COURDY
IP Assistant/Paralegal to
Robyn L. Phillips
James W. McConkie III
Litigation Docketing Specialist

Office-Direct: 801-321-8960

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

U.G.A. NUTRACEUTICALS, SRL,

Petitioner,

v.

MAPLE MOUNTAIN GROUP, INC.,

f/k/a NEWAYS, INC.

Registrant.

Proceeding No.: 9206847

Mark: CARDIOL

Registration No.: 2,693,218

**PETITIONER'S AMENDED FIRST SET OF
REQUESTS FOR PRODUCTION ISSUED TO REGISTRANT**

Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 34 of the Federal Rules of Civil Procedure, Petitioner U.G.A. Nutraceuticals, SRL (“Petitioner” or “U.G.A.”) requests that Registrant Maple Mountain Group, Inc., formerly known as Neways, Inc. (“Registrant”), produce copies of the documents within thirty (30) days of these Requests by mailing or electronically transmitting the requested documents to the undersigned on or before the date of production. The definitions set forth in the Instructions and Definitions of Applicant’s First Set of Interrogatories shall be applicable hereto and are incorporated herein by reference.

INSTRUCTIONS

A. To the extent that you withhold information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, you must: (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable Applicant to assess the claim.

B. If you object to any request, you must state whether any responsive materials are being withheld on the basis of that objection. Fed. R. Civ. P. 34(b)(2)(C).

C. These Requests for Production are continuing in nature. Fed. R. Civ. P. 26(e).

REQUESTS FOR PRODUCTION

Please produce:

DOCUMENT REQUEST NO. 1:

All Documents identified or described in Registrant's Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(A).

DOCUMENT REQUEST NO. 2:

All Documents identified in your response to U.G.A.'s First Set of Interrogatories to Registrant (issued contemporaneously with these Requests).

DOCUMENT REQUEST NO. 3:

All Documents concerning every federal trademark or service mark application or registration obtained by (or sought to be obtained by) Registrant for each of Registrant's marks, including copies of all documents submitted to or received from the United States Patent and Trademark Office in connection therewith.

DOCUMENT REQUEST NO. 4:

All Documents concerning and supporting the First Affirmative Defense stated in Registrant's Amended Answer, that Registrant "has used and is currently using the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration, and as such, has not abandoned the same."

DOCUMENT REQUEST NO. 5:

All Documents concerning and supporting the Second Affirmative Defense stated in Registrant's Amended Answer, stating that Registrant "has used the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration in interstate commerce[.]"

DOCUMENT REQUEST NO. 6:

All Documents concerning Registrant's knowledge of U.G.A.'s adoption, use, or trademark application (Application Serial No. 79/218,713) with respect to the mark CARDIOL, including all Documents reflecting communications about or with Petitioner.

DOCUMENT REQUEST NO. 7:

Documents sufficient to identify all goods and services actually sold by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 8:

Documents sufficient to show any planned or future development of any goods or services to be sold in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 9:

Documents sufficient to identify all channels of trade through which Registrant advertises or sells, including any plans to advertise or sell, any goods in connection with Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, documents identifying the distributors, retail, or other business outlets that offer or will offer Registrant's goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 10:

Documents sufficient to identify each price at which Registrant has marketed or sold any goods in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 11:

All Documents concerning the development of any "Health and Nutritional Supplement" products sold by Registrant that bear Registrant's 2,693,218 CARDIOL Mark as a mark, tagline or source identifier.

DOCUMENT REQUEST NO. 12:

All Documents concerning the sale of any of any products that bear the term "CARDIOL" as a mark, tagline or source identifier.

DOCUMENT REQUEST NO. 13:

Documents sufficient to show the volume (in dollars and units) of annual sales of all goods sold, directly or indirectly, by or on behalf of Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark for each of the last ten (10) years.

DOCUMENT REQUEST NO. 14:

Documents sufficient to show, for each of the last ten (10) years, all costs and expenses incurred annually by Registrant to promote, market and advertise goods actually or planned or intended to be sold, offered, distributed or licensed under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 15:

Documents sufficient to describe the actual and target purchasers of goods actually or planned to be sold by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 16:

All Documents relied upon by Registrant in drafting the Answer.

DOCUMENT REQUEST NO. 17:

All Documents identifying all persons who have concerning the consideration, selection, conception, creation or adoption of any use of the mark CARDIOL for use on or in connection with any of Registrant's doogs.

DOCUMENT REQUEST NO. 18:

All Documents concerning Registrant's first use of the mark CARDIOL anywhere in the United States.

DOCUMENT REQUEST NO. 19:

All Documents concerning Registrant's first use of the mark CARDIOL in United States commerce.

DOCUMENT REQUEST NO. 20:

All Documents concerning Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, all Documents submitted to or received from the United States Patent and Trademark Office in connection with the application and registration of said Mark.

DOCUMENT REQUEST NO. 21:

All Documents concerning any state trademark registrations sought or obtained by Registrant for the CARDIOL mark, including, but not limited to, copies of all documents submitted to or received from any state trademark registration agency.

DOCUMENT REQUEST NO. 22:

Documents sufficient to identify the geographic regions in the United States in which Registrant has advertised, promoted, or sold, or plans or intends to advertise, promote, or sell, any goods in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 23:

A representative sample of any and all products being Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 24:

All media coverage, in any form or medium (print, electronic or other), of any use or intended use of Registrant's 2,693,218 CARDIOL Mark, whether or not authored by any official member of the press.

DOCUMENT REQUEST NO. 25:

All documents representing any and all advertising issued in connection with Registrant's 2,693,218 CARDIOL Mark within the last ten (10) years.

DOCUMENT REQUEST NO. 26:

All Documents concerning any graphic designers engaged by Registrant with respect to the preparation of any materials bearing or otherwise using Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 27:

Copies of all trademark searches conducted by or on behalf of Registrant concerning the availability to use or register Registrant's 2,693,218 CARDIOL Mark, and all correspondence and other Documents relating thereto.

DOCUMENT REQUEST NO. 28:

All Documents concerning any administrative proceeding or civil action relating to Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 29:

All agreements between or among Registrant and any other person involving the actual or planned manufacture, advertisement, or sale of any goods in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 30:

Documents sufficient to identify all third parties that sell, distribute or license goods in connection with Registrant's 2,693,218 CARDIOL Mark.

DOCUMENT REQUEST NO. 34:

Every cease and desist request or demand Registrant has ever sent, served, or submitted concerning or mentioning the CARDIOL mark.

August 12, 2019

Respectfully submitted,

/s/ Daniel S. Tyler
DANIEL S. TYLER
AMIN TALATI WASSERMAN, LLP
100 S. WACKER DRIVE, SUITE 2000
CHICAGO, IL 60606
Telephone: 312-784-1061
daniel@amintalati.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2019, a true and correct copy of the foregoing was served by via electronic mail on all counsel or parties of record on the Service List below:

John C. Stringham
WORKMAN NYDEGGER
60 East South Temple, Suite 1000
Salt Lake City, UT 84111
jstringham@wnlaw.com

/s/ Daniel S. Tyler

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

In the matter of Trademark Registration Serial No. 2,693,218
Registered: March 4, 2003
Mark: CARDIOL

<p>U.G.A. NUTRACEUTICALS SRL, Petitioner, v. MAPLE MOUNTAIN GROUP, INC., f/k/a NEWAYS, INC. Registrant.</p>	<p>Cancellation No. 92068467 REGISTRANT'S RESPONSES TO PETITIONER'S AMENDED FIRST SET OF REQUESTS FOR PRODUCTION</p>
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Pursuant to 37 C.F.R. § 2.120 and Rules 26 and 34 of the Federal Rules of Civil Procedure, Registrant Maple Mountain Group, Inc., formerly known as Neways, Inc. ("Registrant") hereby submits the following Responses to Petitioner's Amended First Set of Requests for Production Issued to Registrant propounded by Petitioner U.G.A. Nutraceuticals SRL ("Petitioner" or "U.G.A.") in the above-captioned Action as follows:

GENERAL OBJECTIONS

The General Objections and Definitions of Specific Objections recited in Registrant's Responses to Petitioner's Amended First Set of Interrogatories to Registrant are incorporated herein by reference.

RESPONSES TO REQUEST FOR PRODUCTION

REQUEST NO. 1:

All Documents identified or described in Registrant’s Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1)(A).

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Applicant objects to this request because it seeks “all” documents concerning a given subject and therefore is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of facts relevant to a claim or defense in this case. Read literally, this request would require Applicant to exhaustively search every record of Applicant since it first started using its marks in commerce, in an attempt to locate “all” documents that might possibly be responsive. That burden substantially outweighs the likely benefit to be realized by such a production. Applicant further objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to this request for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 2:

All Documents identified in your response to U.G.A.’s First Set of Interrogatories to Registrant (issued contemporaneously with these Requests).

RESPONSE:

Registrant did not identify any documents in Registrant's Responses to U.G.A.'s First Set of Interrogatories to Registrant.

REQUEST NO. 3:

All Documents concerning every federal trademark or service mark application or registration obtained by (or sought to be obtained by) Registrant for each of Registrant's marks, including copies of all documents submitted to or received from the United States Patent and Trademark Office in connection therewith.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the ground that it is vague and ambiguous to the extent that the term "Registrant's marks" is undefined and unclear. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this litigation and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks "all" documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" documents that might possibly be responsive to a request. Thus,

Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 4:

All Documents concerning and supporting the First Affirmative Defense stated in Registrant’s Amended Answer, that Registrant “has used and is currently using the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration, and as such, has not abandoned the same.”

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 5:

All Documents concerning and supporting the Second Affirmative Defense stated in Registrant’s Amended Answer, stating that Registrant “has used the CARDIOL mark in connection with or on the goods covered by the [2,693,218] Registration in interstate commerce[.]”

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 6:

All Documents concerning Registrant's knowledge of U.G.A.'s adoption, use, or trademark application (Application Serial No. 79/218,713) with respect to the mark CARDIOL, including all Documents reflecting communications about or with Petitioner.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this litigation and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant further objects to this Request to the extent it seeks information or documents that are available to Petitioner from its own files or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks "all" documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that "all" documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 7:

Documents sufficient to identify all goods and services actually sold by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 8:

Documents sufficient to show any planned or future development of any goods or services to be sold in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 9:

Documents sufficient to identify all channels of trade through which Registrant advertises or sells, including any plans to advertise or sell, any goods in connection with Registrant's 2,693,218 CARDIOL Mark, including, but not limited to, documents identifying the distributors, retail, or other business outlets that offer or will offer Registrant's goods or services in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request to the extent it seeks "documents identifying the distributors . . . that offer or will offer Registrant's goods or services with Registrant's 2,693,218 CARDIOL Mark" which in Registrant's business model are Registrant's customers and pursuant to TBMP 414, example 3 are not discoverable. *See Johnston Pump/General Valve Inc. v. Chromalloy American Corp.*, 10 U.S.P.Q.2d 1671, 1675 (T.T.A.B. 1988). Registrant objects to this Request on the grounds that it is overbroad and unduly burdensome because it is not limited in scope to the United States.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that identify the channels of trade through which Registrant advertises or sells products under or in association with the CARDIOL mark.

REQUEST NO. 10:

Documents sufficient to identify each price at which Registrant has marketed or sold any goods in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 11:

All Documents concerning the development of any "Health and Nutritional Supplement" products sold by Registrant that bear Registrant's 2,693,218 CARDIOL Mark as a mark, tagline or source identifier.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request to the extent that "the development of any 'Health and Nutritional Supplement' products sold by Registrant that bear Registrant's 2,693,218

CARDIOL Mark” is so vague and ambiguous, overbroad, and irrelevant as to encompass documents that are wholly irrelevant to the present cancellation

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 12:

All Documents concerning the sale of any products that bear the term “CARDIOL” as a mark, tagline or source identifier

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request to the extent it is so vague and ambiguous, overbroad, and irrelevant as to encompass parties and/or “CARDIOL” products that are wholly irrelevant to the present cancellation. Registrant objects to this Request because it because it seeks information not within Registrant’s possession, custody, or control. Registrant further objects to this Request to the extent it seeks information or documents that are available to

Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 13:

Documents sufficient to show the volume (in dollars and units) of annual sales of all goods sold, directly or indirectly, by or on behalf of Registrant under or in connection with Registrant’s 2,693,218 CARDIOL Mark for each of the last ten (10) years.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being overly broad and unduly burdensome.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 14:

Documents sufficient to show, for each of the last ten (10) years, all costs and expenses incurred annually by Registrant to promote, market and advertise goods actually or planned or intended to be sold, offered, distributed or licensed under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks documents subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding.

Registrant also objects to this Request to the extent it seeks "all" information concerning a given subject (costs and expenses) on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" information that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that "all" information has been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 15:

Documents sufficient to describe the actual and target purchasers of goods actually or planned to be sold by Registrant under or in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the ground that it is vague and ambiguous to the extent that the term "actual and target purchasers" is undefined and unclear.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 16:

All Documents relied upon by Registrant in drafting the Answer.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant also objects to this Request to the extent it seeks "all" documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible

evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 17:

All Documents identifying all persons who have concerning the consideration, selection, conception, creation or adoption of any use of the mark CARDIOL for use on or in connection with any of Registrant’s doogs.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this request as being vague and ambiguous to the extent it is missing words and is incomprehensible. Registrant objects to this Request on the ground that it is vague and ambiguous to the extent that the term “doogs” is undefined and unclear. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding.

REQUEST NO. 18:

All Documents concerning Registrant’s first use of the mark CARDIOL anywhere in the United States.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so vague and ambiguous, overbroad, and irrelevant as to encompass documents that are wholly irrelevant to the present cancellation proceeding. Registrant objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 19:

All Documents concerning Registrant’s first use of the mark CARDIOL in United States commerce.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so vague and ambiguous, overbroad, and irrelevant as to encompass documents that are wholly irrelevant to the present

cancellation proceeding. Registrant objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 20:

All Documents concerning Registrant’s 2,693,218 CARDIOL Mark, including, but not limited to, all Documents submitted to or received from the United States Patent and Trademark Office in connection with the application and registration of said Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request to the extent it is vague and ambiguous, overbroad, burdensome, and irrelevant. Registrant objects to this Request to the extent it is so vague and ambiguous, overbroad, and irrelevant as to encompass documents and subjects that are wholly irrelevant to the present cancellation proceeding. Registrant objects to this Request to the extent it seeks

documents not within Registrant's possession, custody, or control. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks "all" documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that "all" documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 21:

All Documents concerning any state trademark registrations sought or obtained by Registrant for the CARDIOL mark, including, but not limited to, copies of all documents submitted to or received from any state trademark registration agency.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant further

objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this litigation and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request to the extent it seeks documents not within Registrant's possession, custody, or control. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks "all" documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that "all" documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 22:

Documents sufficient to identify the geographic regions in the United States in which Registrant has advertised, promoted, or sold, or plans or intends to advertise, promote, or sell, any goods in connection with Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or

privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 23:

A representative sample of all products being Registrant's 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request as vague and ambiguous to the extent it obviously includes a typographical error which makes it incomprehensible. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 24:

All media coverage, in any form or medium (print, electronic or other), of any use or intended use of Registrant's 2,693,218 CARDIOL Mark, whether or not authored by any official member of the press.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or

privilege. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive. Registrant objects to this Request to the extent it seeks documents not within Registrant's possession, custody, or control.

Registrant also objects to this Request to the extent it seeks "all" documents (media coverage) concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate "all" documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that "all" documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 25:

All documents representing any and all advertising issued in connection with Registrant's 2,693,218 CARDIOL Mark within the last ten (10) years.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request to the extent it seeks documents not within Registrant's possession, custody, or control. Registrant objects to this Request to the extent it

seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 26:

All Documents concerning any graphic designers engaged by Registrant with respect to the preparation of any materials bearing or otherwise using Registrant’s 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this cancellation and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request to the extent the phrase “engaged by

Registrant” is vague, ambiguous and over broad. Registrant objects to this Request to the extent it seeks documents not within Registrant’s possession, custody, or control.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 27:

Copies of all trademark searches conducted by or on behalf of Registrant concerning the availability to use or register Registrant’s 2,693,218 CARDIOL Mark, and all correspondence and other Documents relating thereto.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request on the grounds that it is overbroad and unduly burdensome because it is not limited to the United States.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 28:

All Documents concerning any administrative proceeding or civil action relating to Registrant’s 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant objects to this Request to the extent it seeks information or documents that are available to Petitioner from public sources or from some other source that is more convenient, less burdensome or less expensive. Registrant objects to this Request to the extent it seeks documents not within Registrant’s possession, custody, or control.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 29:

All agreement between or among Registrant and any other person involving the actual or planned manufacture, advertisement, or sale of any goods in connection with Registrant’s 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this cancellation proceeding and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request on the grounds that it is overbroad and unduly burdensome because it is not limited in scope to the United States.

Registrant also objects to this Request to the extent it seeks “all” documents concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “all” documents that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “all” documents have been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

REQUEST NO. 30:

Documents sufficient to identify all third parties that sell, distribute or license goods in connection with Registrant’s 2,693,218 CARDIOL Mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this litigation and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request as being vague and ambiguous to the extent that the phrase “license goods in connection with Registrant’s 2,693,218 CARDIOL Mark” is confusing and unclear. Registrant objects to this Request on the grounds that it contains discrete subparts, each of which count against the limit imposed in this Cancellation proceeding. Registrant objects to this Request to the extent it seeks “identify all third parties that sell, distribute or license goods in connection with Registrant’s 2,693,218 CARDIOL Mark” which in Registrant’s business model are also customers of Registrant, and pursuant to TBMP 414, example 3 are not discoverable. *See Johnston Pump/General Valve Inc. v. Chromalloy American*

Corp., 10 U.S.P.Q.2d 1671, 1675 (T.T.A.B. 1988). Registrant objects to this Request on the grounds that it is overbroad and unduly burdensome because it is not limited in scope to the United States.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will not be producing documents responsive to this Request.

REQUEST NO. 34:

Every cease and desist request or demand Registrant has ever sent, served, or submitted concerning or mentioning the CARDIOL mark.

RESPONSE:

Registrant objects to this Request to the extent it seeks information subject to the attorney client privilege, within the attorney work product immunity, or other grounds of immunity or privilege. Registrant further objects to this Request as being so overly broad that it encompasses subject matter that is not involved in this cancellation proceeding and is not likely to lead to the discovery of admissible evidence. Registrant objects to this Request on the grounds that it is overbroad and unduly burdensome because it is not limited in scope to the United States.

Registrant also objects to this Request to the extent it seeks “every” document concerning a given subject on the grounds that such requests for production are overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Read literally, this Request requires Registrant to search exhaustively for documents in an attempt to locate “every” document that might possibly be responsive to a request. Thus, Registrant objects because it is impossible to represent, even after a diligent search and consideration, that “every” document has been located to respond to the requests for production.

Subject to and without waiving any of the foregoing general or specific objections, Registrant will produce relevant, non-privileged documents, to the extent such documents exist, that are responsive to this Request.

DATED this 11th day of October, 2019.

Respectfully submitted,

/Robyn L. Phillips/
John C. Stringham, Reg. No. 40,831
Robyn L. Phillips, Reg. No. 39,330

WORKMAN NYDEGGER
60 East South Temple, Suite 1000
Salt Lake City, Utah 84111
Telephone: (801) 533-9800
Facsimile: (801) 328-1707
jstringham@wnlaw.com
rphillips@wnlaw.com
ldocketing@wnlaw.com

ATTORNEYS FOR REGISTRANT
MAPLE MOUNTAIN GROUP, INC.
f/k/a NEWAYS, INC.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **REGISTRANT'S RESPONSES TO PETITIONER'S AMENDED FIRST SET OF REQUESTS FOR PRODUCTION** has been served on this 11th day of October, 2019, via email to the following counsel of record for Petitioner:

Daniel S. Tyler
AMIN TALATI UPADHYE, LLP
100 S. Wacker Dr., Suite 2000
Chicago, IL 60606
trademark@amintalati.com
daniel@amintalati.com
jennifer.colkitt@amintalati.com

/Robyn L. Phillips/_____
Robyn L. Phillips

From: [Daniel Tyler](#)
To: [Robyn L. Phillips](#)
Cc: jstringham@wnlaw.com
Subject: Re: Correspondence regarding U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc.
Date: Saturday, March 7, 2020 12:18:28 AM
Attachments: [ATT00001.png](#)
[ATT00003.png](#)
[ATT00005.png](#)
[ATT00005.png](#)
[ATT00003.png](#)
[ATT00001.png](#)

Robyn,

We don't have any documents from your side. I would prefer we handle this privately. Can we meet and confer next week?

Daniel S. Tyler
Amin Talati Wasserman

312.784.1061 DIRECT
312.466.1033 OFFICE
312.884.7352 FAX

100 S. Wacker Dr.
Suite 2000
Chicago, IL 60606

From: Robyn L. Phillips <rphillips@wnlaw.com>
Sent: Friday, March 6, 2020 3:03 PM
To: daniel@amintalati.com
Cc: jstringham@wnlaw.com
Subject: RE: Correspondence regarding U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc.

Daniel-

Thank you for your email. I did receive the email. I am out of the office today but I have a paralegal looking at the email and getting the documents. I will let you know if there are any issues. Regards. Robyn

ROBYN L. PHILLIPS
REGISTERED PATENT ATTORNEY
SHAREHOLDER

Office-Direct: 801-321-8901
EMAIL: RPHILLIPS@WNLAW.COM

From: Daniel Tyler <daniel@amintalati.com>

Sent: Friday, March 6, 2020 1:45 PM

To: Robyn L. Phillips <RPhillips@WNLaw.com>

Subject: RE: Correspondence regarding U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc.

Robyn,

You should be receiving an email from wetransfer.com with a link to access U.G.A. Nutraceutical's production of documents in the above captioned cancellation. Please let me know if you have issues accessing the files.

Best regards,

Dan Tyler



Daniel S. Tyler

[Website](#) | [About Us](#) | [Bio](#)

312.784.1061 **DIRECT**

312.466.1033 **OFFICE**

312.884.7352 **FAX**

100 S. Wacker Dr.
Suite 2000
Chicago, IL 60606



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From: Robyn L. Phillips [<mailto:rphillips@wnlaw.com>]

Sent: Friday, October 11, 2019 7:30 PM

To: Daniel Tyler <daniel@amintalati.com>

Cc: jstringham@wnlaw.com; sheld@wnlaw.com; lgifford@wnlaw.com; scourdy@wnlaw.com; jhunter@wnlaw.com; Trademark <Trademark@amintalati.com>; Jennifer Colkitt <jennifer.colkitt@amintalati.com>

Subject: Correspondence regarding U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc.

Re: *U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc.*,
Cancellation No. 92068467
WN File: 14564.242

Dear Daniel-

Please find attached a service copy of Registrant's Responses to the Amended First Set of Interrogatories and the Amended First Set of Requests for Production in the above identified cancellation. Regards. Robyn

ROBYN L. PHILLIPS
REGISTERED PATENT ATTORNEY
SHAREHOLDER

Office-Direct: 801-321-8901

EMAIL: [RPHILLIPS@WNLAW.COM](mailto:rphillips@wnlaw.com)

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From: [Robyn L. Phillips](#)
To: [Daniel Tyler](#)
Cc: jstringham@wnlaw.com; jhunter@wnlaw.com; scourdy@wnlaw.com
Subject: U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc re the mark CARDIOL [WNDMS-DMS1.FID1959308]
Date: Thursday, April 30, 2020 7:22:22 PM
Attachments: [ATT00001.png](#)
[CARDIOL Stip mot. ext. 90 days 4 30 20 Receipt.pdf](#)

Daniel-

Thank you for participating in our call this afternoon. I thought our call was productive.

Consistent with our agreement, please find attached the service copy of the receipt from filing the Motion to Extend with Consent for 90 days.

With regard to the meet and confer portion of the call, we discussed my correspondence of April 3, 2020 and the reasons Registrant believes certain responses to the interrogatories are deficient. I did agree in our call after reviewing Interrogatory 20 that we would accept Petitioner's response to that interrogatory.

In our call, I indicated that Registrant would try to produce documents next week. We discussed that both parties need to prepare supplemental responses. Registrant will be supplementing its responses to the Petitioner's document requests in due course. Please let me know as soon as possible if you intend to supplement Petitioner's responses to interrogatories 21-25 and 27, and when we can expect to receive them.

Please let me know if you have any questions. Regards. Robyn

ROBYN L. PHILLIPS
REGISTERED PATENT ATTORNEY
SHAREHOLDER

Office-Direct: 801-321-8901

EMAIL: RPHILLIPS@WNLAW.COM

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From: [Robyn L. Phillips](#)
To: [Daniel Tyler](#)
Cc: jstringham@wnlaw.com; jhunter@wnlaw.com; scourdy@wnlaw.com
Subject: RE: U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc re the mark CARDIOL [WNDMS-DMS1.FID1959308] [WNDMS-DMS1-DMS1.FID1959308]
Date: Thursday, July 30, 2020 6:16:25 PM
Attachments: [ATT00001.png](#)
[ATT00003.png](#)
[ATT00005.png](#)
[ATT00006.png](#)
[ATT00007.png](#)
[UGA Nutraceuticals SRL v. Maple Mountain Group WNDMS-DMS1.FID1959308.msg](#)
Importance: High

Hi Daniel-

Thank you for the quick response. I was just working on drafting an email to you because I was not sure you were going to be able to hear me in the voice mail because there was suddenly a large amount of static on the line.

My schedule is very flexible. Do you want me to call you at 11 your time (central) and 10 our time (mountain)? If that time does not work just let me know what time works for you and I can make it work.

With regard to your statement that Maple Mountain Group, Inc “has not produced a single document in this case,” this is simply not true. In fact, we produced documents on May 16, 2020 and served them on you by email. I am attaching the email. Please note that the link for downloading the documents had a 21 day limit to be accessed. As a result, if you did not download the documents we will need to send you the link again. Please confirm you received the service email of May 16, 2020. The email address looks correct to me. If you received the email but for what ever reason did not access the documents, please let me know and we will send you another link to the documents that were produced.

I look forward to your response and discussing this matter tomorrow. Have a good evening.
Regards. Robyn

ROBYN L. PHILLIPS
REGISTERED PATENT ATTORNEY
SHAREHOLDER

Office-Direct: 801-321-8901
EMAIL: RPHILLIPS@WNLAW.COM

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T: (801) 533-9800 • F: (801) 328-1707
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From: Daniel Tyler <daniel@amintalati.com>

Sent: Thursday, July 30, 2020 3:08 PM

To: Robyn L. Phillips <RPhillips@WNLaw.com>

Cc: John C. Stringham <JStringham@WNLaw.com>; Jennifer Hunter <JHunter@WNLaw.com>; Shellie C. Courdy <SCourdy@WNLaw.com>

Subject: RE: U.G.A. Nutraceuticals SRL v. Maple Mountain Group, Inc. fka Neways, Inc re the mark CARDIOL [WNDMS-DMS1.FID1959308] [WNDMS-DMS1-DMS1.FID1959308]

Robyn,

I am in receipt of your voicemail. Sorry I missed you. I am happy to give you a call tomorrow to discuss the below. What times work for you?

As an initial matter, we concur with the extension. Further, on the call I would add to the agenda that your side has not produced a single document in this case. My client cannot reasonably be expected to offer anything in settlement when we have been provided with virtually zero evidence of your client's use of the mark.



Daniel S. Tyler

[Website](#) | [About Us](#) | [Bio](#)

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From: Robyn L. Phillips [<mailto:rphillips@wnlaw.com>]