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

Proceeding	92072563
Party	Plaintiff Logofit, LLC
Correspondence Address	CRAIG A REDINGER YOUNG BASILE HANLON & MACFARLANE PC 3001 WEST BIG BEAVER RD STE 624 TROY, MI 48084-3107 UNITED STATES Primary Email: <a href="mailto:docketing@youngbasile.com">docketing@youngbasile.com</a> Secondary Email(s): <a href="mailto:redinger@youngbasile.com">redinger@youngbasile.com</a> , <a href="mailto:clutter@youngbasile.com">clutter@youngbasile.com</a> 734-662-0270
Submission	Motion to Compel Discovery or Disclosure
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Signature	/CWC/
Date	08/08/2020
Attachments	Second Motion to Compel.pdf(994298 bytes )

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

LOGOFIT, LLC,

Petitioner,

Cancellation No. 92072563

v.

SHAY SIPE,

Respondent.

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**PETITIONER’S MOTION TO COMPEL RESPONDENT  
TO RESPOND TO DISCOVERY REQUESTS AND  
FOR SANCTIONS FOR FAILURE TO MEET AND CONFER IN GOOD FAITH**

Pursuant to Rule 2.120(f) of the Trademark Rules of Practice, Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 523, and Rule 37(a) of the Federal Rules of Civil Procedure, Petitioner LogoFit, LLC (“Petitioner”) hereby moves the Trademark Trial and Appeal Board (the “Board”) for an order (1) finding that Respondent Shay Sipe (“Respondent”) compelling Respondent to serve written responses to Petitioner’s document requests, interrogatories and Requests for Admission and to produce all responsive documents within ten days of the Board’s order on this motion, failing which judgment should be entered against Respondent in this consolidated proceeding.

**CERTIFICATION OF COUNSEL**

Pursuant to Trademark Rule of Practice 2.120(f) and TBMP § 523.02, this motion is made following several good faith attempts by counsel for Petitioner to meet with Respondent in order to discuss and try to resolve the issues presented in this motion. Specifically, Petitioner’s counsel notified Respondent’s counsel that Respondent had failed to serve adequate discovery responses by the deadline and attempted to schedule a meet and confer. (Declaration of Casimir W. Cook II in Support of Petitioner’s Motion to Compel Respondent to Respond to Discovery Requests and for Sanctions for Failure to Meet and Confer in Good Faith dated August 7, 2020 (“Cook Decl.”) ¶¶ 1-29.)

Petitioner does not believe that further discussions with Respondent are likely to resolve the present discovery dispute as Respondent appears to have decided not to participate in the proceeding. Under these circumstances, Petitioner has satisfied the meet-and-confer requirement of Trademark Rule of Practice 2.120(f) and TBMP § 523.02. *See Envirotech Corp. v. Compagnie Des Lampes*, 219 U.S.P.Q. 448, 450 (T.T.A.B. 1979) (finding that where there had been a complete failure to respond to discovery, repeated attempts to contact opposing counsel were sufficient to satisfy meet-and-confer requirement).

## **BACKGROUND**

### **A. The Proceeding**

On October 18, 2019, Petitioner filed a Petition for Cancellation against Respondent's U.S. Reg. No. 5654838 for the mark SPIRIT WITH STYLE. (Cancl., 1 TTABVUE.) Petitioner's Petition for Cancellation alleges Priority and Likelihood of Confusion pursuant to Trademark Act Sections 14(1) and 2(d). (Id.) Respondent timely filed its answer on November 4, 2019. (Cancl., 4 TTABVUE.) On March 2, 2020, Petitioner filed a Motion to Compel Respondent's Initial Disclosures, which highlighted Respondent's piecemeal Initial Disclosures. (Cancl., 5 TTABVUE.) On March 13, 2020, the Board suspending Proceedings pending disposition of the Motion to Compel. (Cancl., 6 TTABVUE.) On March 18, 2020, Respondent responded to the Motion to Compel. (Cancl., 7 TTABVUE.) On April 6, 2020, Petitioner filed its Reply in support of the Motion to Compel. (Cancl., 8 TTABVUE.) On May 6, 2020, the Board ruled on the Motion to Compel and Proceedings resumed under a revised Scheduling Order. (Cancl., 9 TTABVUE.)

### **B. The Discovery Dispute**

On June 2, 2020, Petitioner served Respondent with Requests for the Production of Documents and Things, Interrogatories and Requests for Admission. (Cook Decl. ¶ 2 & Ex. A.) Under the applicable rules, Respondent's responses were due July 2, 2020. (TBMP §§ 405.04(a), 406.04(a), 407.03(a); Cook Decl. ¶ 3.) On July 2, 2020, Petitioner's counsel provided responses to Petitioner's written discovery requests. (Cook Decl. ¶ 4 & Ex. B.) Respondent written responses to Petitioner's Requests for Production of Documents and Things indicated that Petitioner would serve responsive documents to the

majority of the Requests for Production of Documents and Things. (Id.) Respondent served a General Objection pursuant to 37 C.F.R. §2.120(d) on the grounds that the twenty-eight Interrogatories propounded by Petitioner were somehow excessive in number. (Id.) Respondent served responses to Petitioner's Requests for Admission which included objections based on an inability to understand terms such as "in connection with clothing," "sports groups," "education," "expensive," and "inexpensive" on the grounds that such terms are "vague and ambiguous" to, Respondent, a retailer of clothing. (Id.)

On July 21, 2020, Petitioner's Counsel sent a letter outlining Respondent's discovery deficiencies. ("Cook Decl.") ¶ 8 & Ex. C.). On July 23, 2020, Petitioner's Counsel spoke with Respondent's Counsel (Mr. Patrick Lewis) in an attempt to meet and confer. ("Cook Decl.") ¶ 9.). During this call, Respondent's Counsel indicated that they would not be producing any documents until Petitioner amended its Interrogatories. ("Cook Decl.") ¶ 10.). During this call, Respondent's Counsel refused to go through each of Petitioner's Interrogatories so that Petitioner's Counsel could understand Respondent's Counsel's position that said interrogatories are excessive in number. ("Cook Decl.") ¶ 11.).

Respondent's Counsel pointed to two of Petitioner's Interrogatories as being compound (Nos. 3 and 15). ("Cook Decl.") ¶ 15). Respondent's Counsel indicated that the Definitions and Instructions for Petitioner's written discovery requests in that asking to identify persons or documents in a particular way rendered the Interrogatories compound and excessive. ("Cook Decl.") ¶ 16.). Respondent's Counsel refused to discuss the fact that such definitions are proper under the FRCP and TBMP. ("Cook Decl.") ¶ 17.). Indeed, Respondent's own written discovery requests included similar definitions and instructions and Petitioner timely and fully responded to said requests. (Cook Decl. ¶ 18 & Ex. D.) During this call, Respondent's Counsel refused to discuss and come to an agreement on language it was unable to understand in Petitioner's Requests for Admission. ("Cook Decl.") ¶ 12.).

During the Meet & Confer call, Respondent's counsel, on three separate occasions, clarified with Respondent's Counsel that Respondent's position was that it did not have an obligation to produce responsive documents because Respondent had provided a General Objection to Petitioner's Interrogatories that same were excessive in number, but that Respondent's Counsel would not go through

each of the Interrogatories so that Respondent's Counsel could understand Respondent's count. ("Cook Decl.") ¶ 20.). Respondent's Counsel confirmed that this was Respondent's position three separate times. ("Cook Decl.") ¶ 21.). Petitioner's Counsel attempted to walk Respondent's Counsel through TBMP §405.03(e) and explained that the General Objection provision speaks to the single Request for Production that attempts to capture all documents related to responses to Interrogatories. ("Cook Decl.") ¶ 22.). Respondent's Counsel declined to discuss the scope of TBMP §405.03(e). ("Cook Decl.") ¶ 23.).

Instead of acting in good faith to reconcile the discovery dispute, Respondent's Counsel indicated that their client would not be bothered with unnecessary questions. ("Cook Decl.") ¶ 13.). Petitioner's Counsel countered that questions and information gathering were the precise mechanisms of discovery and that Petitioner's written discovery requests are targeted and well within the scope of acceptable discovery before the Board as contemplated by 37 C.F.R. §2.120 and TBMP §414. ("Cook Decl.") ¶ 14.).

Petitioner's Counsel indicated that it would provide a summary letter to Respondent's Counsel noting the Meet & Confer call and giving Respondent twenty-four hours to amend/supplement its responses to Petitioner's written discovery and produce responsive documents and things. ("Cook Decl.") ¶ 24.). Instead, Respondent's Counsel sent a written summary of the call. (Cook Decl. ¶ 25 & Ex. E.) Petitioner's Counsel felt that Respondent's letter was sufficient to present the impasse and Respondent's failure to cooperate in discovery, its unwillingness to meet and confer in good faith, its failure to respond to interrogatories, failure to produce responsive documents, and lack of understanding of the principles that actually belie its untenable position as to discovery in this Proceeding and as such sent no follow-up summary. (Cook Decl. ¶ 26.)

To date, Respondent has not served amended or supplemental responses to Petitioner's discovery requests. (Cook Decl. ¶ 27.) Further, Respondent has produced no responsive documents or things. (Cook Decl. ¶ 28.)

With the discovery period shrinking, the Covid-19 pandemic upon us, the Respondent's unwillingness to cooperate in a good faith Meet-and-Confer and having no further options, Petitioner filed the instant Motion to Compel and Motion for Sanctions.

## ARGUMENT

This is not a case where there was a good faith effort to respond to discovery or where discovery responses were incomplete. Rather, Respondent has wholly ignored its obligation to respond to discovery despite being reminded of its failure to do so and has wholly ignored its obligations to cooperate in discovery and to participate, in good faith, in the required meet and confer to address this utter failure. Respondent has failed to serve responses to Petitioner's interrogatories or produce documents in response to Petitioner's discovery requests by the deadline and has never provided an acceptable reason for its failure to do so. (Cook Decl. ¶ 26.) Under these circumstances, Petitioner requests that the Board find that Respondent has waived all of its objections to Petitioner's interrogatories and document requests by failing to serve its responses by the deadline. See TBMP § 405.04(a) ("A party which fails to respond to interrogatories during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, on motion to compel filed by the propounding party, to have forfeited its right to object to the interrogatories on their merits."); TBMP § 406.04(a) ("A party which fails to respond to requests for production during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, on motion to compel filed by the propounding party, to have forfeited its right to object to the requests on their merits.").

Moreover, Petitioner requests that the Board order Respondent to serve written responses to Petitioner's interrogatories and document requests and produce responsive documents within ten days of the Board's order on this motion. Should Respondent fail to comply with the Board's order, such inaction, in combination with Respondent's failure to provide responses when first due and to participate in a meet and confer, should be deemed not only contempt of a Board order but also conclusive evidence that Respondent no longer intends to defend itself in the action, and should result in an order sustaining the opposition. *See Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 U.S.P.Q. 99, 100 (T.T.A.B. 1976) (entering judgment where Respondent provided no reason for not complying with Board order compelling discovery).

## SANCTIONS

Petitioner brings this motion pursuant to Trademark Rule of Practice 2.120(h)(1) and Rule 37(b)(2)(A)(vi) of the Federal Rules of Civil Procedure for sanctions in the nature of entry of judgment granting the cancellation and cancelling Registration Nos. 5,654,838. If a party fails to comply with an order of the Board relating to discovery, including a protective order or an order compelling discovery, the Board may enter appropriate sanctions, as defined in 37 C.F.R. § 2.120(h)(1).

In its Order on Petitioner's original motion to compel, the Board reminded the parties that "they have a duty to make a good faith effort to satisfy the discovery needs of their adversary." (Cancl. 9, TTABVUE). Petitioner seeks this relief based on Respondent's knowing failure to cooperate in discovery and refusal to Meet & Confer in good faith regarding its deficient discovery. In shirking its discovery obligations, refusing to discuss the allegations of its discovery objections and refusing to discuss the legal support of its untenable positions, Respondent has wasted the valuable resources of the parties and this Honorable Board.

Because Respondent appears to have no intention of fulfilling its obligations as a party to this proceeding now or in the future, entry of judgment is appropriate.

## **EXTENSION OF PROCEEDING SCHEDULE**

The circumstances giving backdrop to this motion have disrupted Petitioner's ability to access information necessary to further its case in this Proceeding. Given these obstructions and the current atmosphere amid the Covid-19 pandemic, if the Board decided not to enter judgement in favor of Petitioner, the Petitioner seeks a 60-day extension of all remaining deadlines in this Proceeding including the Expert Disclosures and Close of Discovery.

## **CONCLUSION**

For the reasons stated above, Petitioner respectfully requests that its motion be granted in its entirety and that the Board enter an order (1) finding that Respondent has waived its objections to Petitioner's document requests and interrogatories, (2) that Respondent has admitted the Requests for Admission that it refused to Meet and Confer concerning definitions of simple words, and (3) compelling

Respondent to serve written responses to Petitioner's document requests and interrogatories and to produce all responsive documents within ten days of the Board's order on this motion, failing which the consolidated opposition will be sustained and the cancellation will be granted.

Petitioner respectfully requests that its motion for sanctions be granted and that the Honorable Board enter all sanctions it see fit including that judgment be entered in its favor.

LogoFit, LLC



By: \_\_\_\_\_  
Casimir W. Cook II  
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Dated: **August 8, 2020**

*Attorneys for Petitioner*



**CERTIFICATE OF SERVICE**

I certify that I served:

***PETITIONER'S MOTION TO COMPEL RESPONDENT TO RESPOND TO DISCOVERY  
REQUESTS AND FOR SANCTIONS FOR FAILURE TO MEET AND CONFER IN GOOD  
FAITH***

on **August 8, 2020** by:

  X   e-mailing

a copy to:

ANDREA SAGER  
ANDREA SAGER LAW PLLC  
713 LLANO ST  
PASADENA, TX 77504  
UNITED STATES  
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*Attorneys for Respondent*



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

LOGOFIT, LLC,

Petitioner,

Cancellation No. 92072563

v.

SHAY SIPE,

Respondent.

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**DECLARATION OF CASIMIR W COOK II IN SUPPORT OF PETITIONER'S MOTION  
TO COMPEL RESPONDENT TO RESPOND TO DISCOVERY REQUESTS AND FOR  
SANCTIONS FOR FAILURE TO MEET AND CONFER IN GOOD FAITH**

I, Casimir W. Cook II, hereby declare under penalty of perjury:

1. I am an attorney at Young Basile Hanlon & Macfarlane, P.C. ("Young Basile"), attorneys for Petitioner LogoFit, LLC ("Petitioner") in the above-captioned matter. I submit this declaration in support of Petitioner's Motion to Compel Respondent to Respond to Discovery Requests and for Sanctions for Failure to Meet and Confer in Good Faith. I make this declaration based on my personal knowledge of the facts and circumstances set forth herein, my review of my firm's records of this matter, and on the records of the Trademark Trial and Appeal Board (the "Board"), and the U.S. Patent and Trademark Office.

2. On June 2, 2020, Petitioner served Respondent with Requests for the Production of Documents and Things, Interrogatories and Requests for Admission. Attached as Exhibit A are the requests as served.

3. Under the applicable rules, Respondent's responses and production were due July 2, 2020. (TBMP §§ 405.04(a), 406.04(a), 407.03(a)). Applicant did not seek any extensions to the discovery deadline.

4. On July 2, 2020, Petitioner's counsel provided responses to Petitioner's written discovery requests. Attached as Exhibit B are the responses as served.

5. Respondent written responses to Petitioner's Requests for Production of Documents and Things indicated that Petitioner would serve responsive documents to the majority of the Requests for Production of Documents and Things. (Id.)

6. Respondent served a General Objection pursuant to 37 C.F.R. §2.120(d) on the grounds that the twenty-eight Interrogatories propounded by Petitioner were somehow excessive in number. (Id.)

7. Respondent served responses to Petitioner's Requests for Admission which included objections based on an inability to understand terms such as "in connection with clothing," "sports groups," "education," "expensive," and "inexpensive" on the grounds that such terms are "vague and ambiguous" to, Respondent, a retailer of clothing. (Id.)

8. On July 21, 2020, Petitioner's Counsel sent a letter outlining Respondent's discovery deficiencies. Petitioner's counsel notified Respondent's counsel that Respondent had failed to serve adequate discovery responses by the deadline and attempted to schedule a meet and confer. Attached as Exhibit C is the July 21, 2020 letter.

9. On July 23, 2020, Petitioner's Counsel spoke with Respondent's Counsel (Mr. Patrick Lewis) in an attempt to meet and confer

10. During this call, Respondent's Counsel indicated that they would not be producing any documents until Petitioner amended its Interrogatories.

11. During this call, Respondent's Counsel refused to go through each of Petitioner's Interrogatories so that Petitioner's Counsel could understand Respondent's Counsel's position that said interrogatories are excessive in number.

12. During this call, Respondent's Counsel refused to discuss and come to an agreement on language it was unable to understand in Petitioner's Requests for Admission. I reminded Respondent's Counsel that they could qualify their response by indicating their understanding of the term/terms.

13. During this call, Respondent's Counsel indicated that their client would not be bothered with unnecessary questions.

14. During this call, I indicated that questions and information gathering were the precise mechanisms of discovery and that Petitioner's written discovery requests are targeted and well within the scope of acceptable discovery before the Board as contemplated by 37 C.F.R. §2.120 and TBMP §414.

15. Respondent's Counsel pointed to two of Petitioner's Interrogatories as being compound (Nos. 3 and 15). I disagreed.

16. Respondent's Counsel indicated that the Definitions and Instructions for Petitioner's written discovery requests in that asking to identify persons or documents in a particular way rendered the Interrogatories compound and excessive. I disagreed.

17. Respondent's Counsel refused to discuss the fact that such definitions are proper under the FRCP and TBMP.

18. Respondent's own written discovery requests included similar definitions and instructions and Petitioner timely and fully responded to said requests. Attached as Exhibit D are Respondent's Discovery Requests.

19. During this call, Respondent's Counsel refused to discuss and come to an agreement on simple language it was unable to understand in Petitioner's Requests for Admission.

20. During the Meet & Confer call, I, on three separate occasions, clarified with Respondent's Counsel that Respondent's position was that it did not have an obligation to produce responsive documents because Respondent had provided a General Objection to Petitioner's Interrogatories that same were excessive in number, but that Respondent's Counsel would not go through each of the Interrogatories so that Respondent's Counsel could understand Respondent's count.

21. Respondent's Counsel confirmed that this was Respondent's position three separate times.

22. I attempted to walk Respondent's Counsel through TBMP §405.03(e) and explained that the General Objection provision speaks to the single Request for Production that attempts to capture all documents related to responses to Interrogatories.

23. Respondent's Counsel declined to discuss the scope of TBMP §405.03(e).

24. I indicated that I would provide a summary letter to Respondent's Counsel noting the Meet & Confer call and giving Respondent twenty-four hours to amend/supplement its responses to Petitioner's written discovery and produce responsive documents and things.

25. Instead, Respondent's Counsel sent a written summary of the call on July 23, 2020. Attached as Exhibit E is the July 23, 2020 letter from Respondent's Counsel.

26. I felt that Respondent's letter was sufficient to present the impasse and Respondent's failure to cooperate in discovery, its unwillingness to participate in a meet and confer in good faith, its failure to respond to interrogatories, failure to produce responsive documents, and lack of understanding of the principles that actually belie its untenable position as to discovery in this Proceeding and as such sent no follow-up summary.

27. To date, Respondent has not served amended or supplemental responses to Petitioner's discovery requests.

28. To date, Respondent has produced no responsive documents or things.

29. Under the circumstances, Petitioner has made the requisite good faith effort to resolve the issues presented in the motion to compel but has been unable to reach agreement.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 8th day of August, 2020 at Ann Arbor, Michigan.



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Casimir W. Cook II

# Exhibit A

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

LOGOFIT, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92072563
	)	
SHAY SIPE	)	
	)	
Respondent	)	

**PETITIONER’S FIRST SET OF  
INTERROGATORIES TO RESPONDENT**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Petitioner, LogoFit, LLC, requests that Respondent, Shay Sipe, answer each of the interrogatories set forth below within thirty days.

**DEFINITIONS**

- A. As used herein, the term “Petitioner” includes LogoFit, LLC, any predecessors and successors in interest, any parents, subsidiaries, and related organizations, and the officers, directors, employees, agents, and representatives thereof.
  
- B. As used herein, the term “Respondent” includes Shay Sipe, any predecessors and successors in interest, any parents, subsidiaries and related organizations, and the officers, directors, employees, agents, and representatives thereof.
  
- C. As used herein, the term “documents” includes, but is not limited to, all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which

information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process.

D. As used herein, the term “person” includes any corporation, division, agency, or other entity, as well as an individual.

E. As used herein, the terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses that might otherwise be construed outside its scope.

F. As used herein, the phrase “relate or refer to” shall mean comprising, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter.

G. As used herein, the singular shall always include the plural, and the present tense shall always include the past tense, and vice versa.

### **INSTRUCTIONS**

A. Whenever an interrogatory inquiries about documents, please furnish the following information as to each: (1) the date of the document, (2) a general description of the document, (3) a general description of the subject matter to which it pertains, (4) the names and addresses of the addressor, addressee, and all persons receiving or shown the document or copies thereof, (5) the names and addresses of the persons in whose custody, possession, or control the document is presently maintained, and (6) if a privilege is claimed, the identity of the document and the nature of the privilege claimed.

B. Whenever an interrogatory inquiries about the name or identity of a person and that person is an individual, please furnish the following information as to each: (1) the person’s



full name, (2) the person's employer, (3) the person's position or title, (4) the person's last known address, and (5) the person's last known telephone number.

C. Whenever an interrogatory inquires about the name or identity of a person and that person is a corporation, division, agency, or other entity, please furnish the following information as to each: (1) the full name of the corporation, division, agency, or other entity, and (2) the current address of the corporation, division, agency, or other entity.

### **INTERROGATORIES**

1. Identify those persons, employees, agents, contractors, officers, and executives of Respondent with responsibility for the development, promotion, sale, license, or distribution of products or services marketed under Respondent's SPIRIT WITH STYLE mark. For each, describe his or her general areas of responsibility and state the length of time each has had such responsibility.

2. Identify the nature and scope of Respondent's business, its place(s) of business, any predecessors, or any successors.

3. Identify all business entities (incorporated and unincorporated) that Respondent has any ownership interest in, whether Respondent is a co-owner or a sole owner of each business entity, and the identities of all other persons or entities that have any ownership interest in each business entity.

4. Describe the terms of any agreement, written, oral, or otherwise, by which an ownership interest in any business entity (incorporated or unincorporated) was sold to Respondent, transferred to Respondent, or otherwise gained by respondent.

5. Describe Respondent's creation and first use of its SPIRIT WITH STYLE mark in the United States, including the date of use, the transaction that occurred, the products or services

in connection with which the mark was used, and the medium used to display the mark. Also, identify each person having knowledge or information relating to Respondent's first use of its SPIRIT WITH STYLE mark in the United States.

6. Identify all agreements, oral, written, or otherwise, that relate to Respondent's SPIRIT WITH STYLE mark, including the parties to the agreement, the subject matter of the agreement, and the date of the agreement.

7. Identify all agreements, oral, written, or otherwise, that relate to manufacture of products sold by Respondent using the SPIRIT WITH STYLE mark, including the parties to the agreement, the subject matter of the agreement, and the date of the agreement.

8. Describe the nature of each product or service in connection with which Respondent has ever used the SPIRIT WITH STYLE mark in the United States. As to each product or service identified, identify the dates of use of the SPIRIT WITH STYLE mark in connection with each product or service.

9. Describe the nature of each product or service in connection with which Respondent has used, plans to use, or intends to use the SPIRIT WITH STYLE mark.

10. State whether Respondent has conducted or caused to be conducted any trademark searches or other investigations to the designation SPIRIT WITH STYLE. If the answer is anything other than an unqualified negative, identify each person having knowledge or information relating to such searches or other investigations.

11. Identify each person, including employees, contractors, and outside agencies, who presently is or has been responsible for creation of any graphic design that has appeared on any product sold, licensed, or distributed under its SPIRIT WITH STYLE mark. For each person

identified, state the relationship (e.g., employee, contractor, and outside agency, etc.) of such person or entity to Respondent, and state during what period of he or she has such responsibility.

12. Identify the types of advertising and promotion Respondent has used to advertise or promote its products or services under the SPIRIT WITH STYLE mark since Respondent first began use of such mark in the United States. State the amount of money Respondent has spent annually for the advertising and promotion of each product or service sold, licensed, or marketed under the SPIRIT WITH STYLE mark in the United States.

13. Identify each advertisement or promotion for any of Respondent's products or services in connection with which the SPIRIT WITH STYLE mark has been used.

14. Identify each person, including employees, contractors, and outside agencies, who presently is or has been responsible for the advertising or promotion of Respondent's products or services sold, licensed, or distributed under the SPIRIT WITH STYLE mark. For each person identified, state during what period of he or she has such responsibility.

15. Identify each person who presently is or who has been responsible for the sale, license, and distribution of Respondent's products or services under the SPIRIT WITH STYLE mark. For each person identified, state during what period of time that person has had such responsibility.

16. Describe each item on which Respondent has used the SPIRIT WITH STYLE mark.

17. Describe Respondent's target customers or end users for Respondent's products or services sold, licensed, or distributed under the SPIRIT WITH STYLE mark.

18. Identify all channels of trade through which Respondent has sold or offered for sale products or services under the SPIRIT WITH STYLE mark.

19. Identify all wholesale customers to whom Respondent has sold or offered for sale products and services under the SPIRIT WITH STYLE mark.

20. Identify Respondent's revenues from the sale, license, or distribution of its products or services under the SPIRIT WITH STYLE mark in the United States for each year since their introduction.

21. Identify the territorial areas in the United States in which Respondent has sold, licensed, or distributed products or services using the SPIRIT WITH STYLE mark.

22. Identify the territorial areas in the United States in which Respondent has promoted or advertised products or services using the SPIRIT WITH STYLE mark.

23. Identify when Respondent first had knowledge of Petitioner or its use of Petitioner's SPIRIT WITH STYLE mark. Identify any officers, employees, or agents of Respondent who have known or been aware of Petitioner or its use of Petitioner's SPIRIT WITH STYLE mark.

24. Describe any instances of actual confusion or mistake that have or may have occurred between Respondent's SPIRIT WITH STYLE mark or goods or services with which such mark has been used and Petitioner's SPIRIT WITH STYLE mark or goods or services, including the date and place of the confusion or mistake and the persons having knowledge of or information about the confusion or mistake.

25. Identify each third-party use of any name or mark consisting in whole or in part of the term SPIRIT WITH STYLE used in connection with clothing, including but not limited to outerwear, hats, scarves, gloves, mittens, sun hats, sun visors, bottoms, headwear, and tops.

26. Identify each person who has furnished information or otherwise assisted in the preparation of answers to the preceding interrogatories and the particular answers as to which each provided information or assistance.

27. Describe Respondent's sales or exhibition at Womenswear in Nevada ("WWIN") using the SPIRIT WITH STYLE mark.

28. Describe Respondent's sales or exhibition at the Dallas Apparel Market.

Respectfully submitted,

YOUNG BASILE HANLON &  
MACFARLANE PC

/Craig A. Redinger/

Craig A. Redinger  
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**CERTIFICATE OF SERVICE**

I, Craig A. Redinger, an attorney for Petitioner, hereby certify that a copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO RESPONDENT** was served on counsel for Respondent, Andrea Sager of Andrea Sager Law PLLC, via email at [andrea@andreasager.com](mailto:andrea@andreasager.com) on June 2, 2020.

/Craig A. Redinger/

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

LOGOFIT, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92072563
	)	
SHAY SIPE	)	
	)	
Respondent	)	

**PETITIONER’S FIRST REQUEST  
TO RESPONDENT FOR ADMISSIONS**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Petitioner, LogoFit, LLC, requests that Respondent, Shay Sipe, admit or deny the following statements or law within thirty days.

**DEFINITIONS**

- A. As used herein, the term “Petitioner” includes LogoFit, LLC, any predecessors and successors in interest, any parents, subsidiaries, and related organizations, and the officers, directors, employees, agents, and representatives thereof.
- B. As used herein, the term “Respondent” includes Shay Sipe, any predecessors and successors in interest, any parents, subsidiaries and related organizations, and the officers, directors, employees, agents, and representatives thereof.
- C. As used herein, the term “documents” includes, but is not limited to, all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which

information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process.

D. As used herein, the term “person” includes any corporation, division, agency, or other entity, as well as an individual.

E. As used herein, the terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses that might otherwise be construed outside its scope.

F. As used herein, the phrase “relate or refer to” shall mean comprising, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter.

G. As used herein, the singular shall always include the plural, and the present tense shall always include the past tense, and vice versa.

### **INSTRUCTIONS**

A. If Respondent objections to any admission request, please state the reason for the objection and the reasons why Respondent cannot truthfully admit or deny the statement.

### **REQUESTS FOR ADMISSION**

1. Admit that there are no differences in the standard text of Petitioner’s SPIRIT WITH STYLE mark and the standard text of Respondent’s SPIRIT WITH STYLE mark.

2. Admit that there are no differences in the appearance of Petitioner’s SPIRIT WITH STYLE mark and the appearance of Respondent’s SPIRIT WITH STYLE mark.



3. Admit that there are no differences in the sound of Petitioner's SPIRIT WITH STYLE mark and the sound of Respondent's SPIRIT WITH STYLE mark.

4. Admit that there are no differences in the connotation of Petitioner's SPIRIT WITH STYLE mark and the connotation of Respondent's SPIRIT WITH STYLE mark.

5. Admit that there are no differences in the commercial impression of Petitioner's SPIRIT WITH STYLE mark and the commercial impression of Respondent's SPIRIT WITH STYLE mark.

6. Admit that the term "spirit" in Respondent's SPIRIT WITH STYLE MARK refers to "school spirit."

7. Admit that the website that was available at <http://spiritwithstyle.com/> included a category titled "School Spirit." (See, e.g., LGF06470).

8. Admit that Shay Sipe said "I have grown up around my mom's screen printing business Cattilac Style since 1983. I loved watching people's expressions when they picked up their shirts that we created for them. Our designs are very unique and I saw there was a need for fun, detailed, & colorful designs or school spirit t-shirts. We have showcased our designs at FFA, FCCLA, PTA, Atlanta Market, Dallas Market, and the WWIN. I wanted to separate our screen printing business and our wholesale side, so that's when we started calling it 'Spirit With Style' in 2015. We are your one stop wholesale shop for all your School Spirit, Sport or Holiday needs." (See LGF06471-06482).

9. Admit that Respondent sells clothing using the SPIRIT WITH STYLE mark.

10. Admit that Respondent has sold clothing to consumers using the SPIRIT WITH STYLE mark.

11. Admit that Respondent has sold clothing at wholesale using the SPIRIT WITH STYLE mark.
12. Admit that Respondent sells hats using the SPIRIT WITH STYLE mark.
13. Admit that Respondent has sold hats to consumers using the SPIRIT WITH STYLE mark.
14. Admit that Respondent has sold hats at wholesale using the SPIRIT WITH STYLE mark.
15. Admit that Respondent has sold clothing to school groups using the SPIRIT WITH STYLE mark.
16. Admit that Respondent has sold clothing to sports teams using the SPIRIT WITH STYLE mark.
17. Admit that Respondent has sold clothing decorated with designs that relate to education using the SPIRIT WITH STYLE mark.
18. Admit that Respondent has sold clothing decorated with designs that relate to sports using the SPIRIT WITH STYLE mark.
19. Admit that Respondent's clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell hats, scarves, gloves, and mittens.
20. Admit that Respondent's clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell books.
21. Admit that Respondent possesses, controls, or has custody of [www.spiritwithstyle.com](http://www.spiritwithstyle.com).
22. Admit that Respondent possesses, controls, or has custody of [www.spiritwithstylewholesale.com](http://www.spiritwithstylewholesale.com).

23. Admit that Respondent created a business page on Facebook for SPIRIT WITH STYLE on or around January 20, 2014.

24. Admit that Respondent created a group on Facebook for SPIRIT WITH STYLE VIP WHOLESALE on or around April 12, 2017.

25. Admit that Respondent changed the name of the SPIRIT WITH STYLE VIP WHOLESALE Facebook group to SPIRIT WITH STYLE WHOLESALE GRAPHIC TEES on or around February 27, 2019.

26. Admit that Respondent possesses, controls, or has custody of the Instagram account named SPIRITWITHSTYLE.

27. Admit that Respondent has published, through the Instagram account named SPIRITWITHSTYLE, photos that show shirts and hats together.

28. Admit that Respondent first used SPIRIT WITH STYLE in relation to clothing on August 1, 2014.

29. Admit that Respondent first used SPIRIT WITH STYLE in commerce in relation to clothing on May 1, 2015.

30. Admit that Respondent uses the SPIRIT WITH STYLE mark with shirts.

31. Admit that Respondent uses the SPIRIT WITH STYLE mark with headwear.

32. Admit that Respondent does not use the SPIRIT WITH STYLE mark with clothing bottoms.

33. Admit that Respondent did not, as of May 1, 2015, use the SPIRIT WITH STYLE mark with clothing bottoms.

34. Admit that Respondent did not, as of May 29, 2018, use the SPIRIT WITH STYLE mark with clothing bottoms.

35. Admit that Respondent has displayed and offered for sale clothing to individual consumers at the Dallas Apparel Market using the SPIRIT WITH STYLE mark.

36. Admit that Respondent has displayed and offered for sale clothing to individual consumers at the Dallas Apparel Market using the SPIRIT WITH STYLE mark.

37. Admit that Respondent's goods are not expensive.

38. Admit that due to the inexpensive price of Respondent's goods, customers likely do not use a high degree of care in their purchasing decisions.

39. Admit that Petitioner has not licensed Respondent to use any of Petitioner's marks.

40. Admit that Respondent has displayed and offered for sale clothing to individual consumers at the business known as CATTILAC STYLE, having a place of business at 2317 S. Danville Drive, Abilene, Texas, 79605 (herein, "CATTILAC STYLE").

41. Admit that Respondent has sold clothing using the SPIRIT WITH STYLE MARK decorated with designs created by employees CATTILAC STYLE.

42. Admit that Respondent has sold clothing using the SPIRIT WITH STYLE mark decorated with designs that have also been used to decorate clothing sold using the CATTILAC STYLE mark.

43. Admit that Respondent's SPIRIT WITH STYLE mark is owned by CATTILAC STYLE.

44. Admit that Shay Sipe was not the sole owner of CATTILAC STYLE on May 29, 2018.

45. Admit that Shay Sipe was not the sole owner of CATTILAC STYLE on May 1, 2015.

Respectfully submitted,

YOUNG BASILE HANLON &  
MACFARLANE PC

/Craig A. Redinger/

Craig A. Redinger  
Michigan Bar Member  
Reg. No. 55,886

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F: (734) 662-1014

3001 West Big Beaver Road, St. 624  
Troy, Michigan 48084-3107

**CERTIFICATE OF SERVICE**

I, Craig A. Redinger, an attorney for Petitioner, hereby certify that a copy of the foregoing **PETITIONER'S FIRST REQUEST TO RESPONDENT FOR ADMISSIONS** was served on counsel for Respondent, Andrea Sager of Andrea Sager Law PLLC, via email at [andrea@andreasager.com](mailto:andrea@andreasager.com) on June 2, 2020.

/Craig A. Redinger/

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

LOGOFIT, LLC	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92072563
	)	
SHAY SIPE	)	
	)	
Respondent	)	

**PETITIONER’S FIRST REQUEST TO RESPONDENT  
FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Petitioner, LogoFit, LLC, requests that Respondent, Shay Sipe, make the documents described below available to Petitioner within thirty days.

**DEFINITIONS**

- A. As used herein, the term “Petitioner” includes LogoFit, LLC, any predecessors and successors in interest, any parents, subsidiaries, and related organizations, and the officers, directors, employees, agents, and representatives thereof.
  
- B. As used herein, the term “Respondent” includes Shay Sipe, any predecessors and successors in interest, any parents, subsidiaries and related organizations, and the officers, directors, employees, agents, and representatives thereof.
  
- C. As used herein, the term “documents” includes, but is not limited to, all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which

information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process.

D. As used herein, the term “person” includes any corporation, division, agency, or other entity, as well as an individual.

E. As used herein, the terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the interrogatory all responses that might otherwise be construed outside its scope.

F. As used herein, the phrase “relate or refer to” shall mean comprising, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter.

G. As used herein, the singular shall always include the plural, and the present tense shall always include the past tense, and vice versa.

### **INSTRUCTIONS**

A. If any of the documents requested below were formerly but no longer are in Respondent’s possession, custody, or control, state the present location and custodian of such document.

B. If Respondent claims a privilege respecting any document that falls within the categories set forth below, the following information is requested: (1) the basis for the privilege, (2) the date of the document, (3) the originator of the document, to whom it is addressed, and all persons who were shown or given copies, and (4) a general description of the type of document and the subject matter to which it pertains.



## **DOCUMENT REQUESTS**

1. All documents that relate or refer to Respondent's initial disclosures pursuant to Federal Rule of Civil Procedure 26(a).
2. All documents that relate or refer to responses to Petitioner's First Set of Interrogatories.
3. All documents that relate or refer to trademarks or service marks cited or quoted in Respondent's Answer to the Petition.
4. All documents that comprise or relate to agreements regarding Respondent's ownership of any business entity, including the business known as CATTILAC STYLE, having a place of business at 2317 S. Danville Drive, Abilene, Texas, 79605 (herein, "CATTILAC STYLE").
5. All documents that comprise or relate to regarding ownership, use, or licensing of Respondent's SPIRIT WITH STYLE mark.
6. All documents that relate or refer to Respondent's consideration, selection, adoption, or first use of the SPIRIT WITH STYLE mark.
7. All documents that relate or refer to Respondent's use in commerce of the SPIRIT WITH STYLE mark.
8. Representative samples of each product in connection with which Respondent has ever used the SPIRIT WITH STYLE mark.
9. All documents comprising or identifying items on which Respondent has used the SPIRIT WITH STYLE mark.
10. All documents that relate or refer to the manner in which Respondent has used the SPIRIT WITH STYLE mark.

11. All documents that relate or refer to Respondent's Application Serial No. 87939622, Respondent's Registration Serial No. 5654838, and any other attempts to register the SPIRIT WITH STYLE mark in the United States.

12. All documents that relate or refer to the advertising or promotion of products or services using the SPIRIT WITH STYLE mark, including, but not limited to, representative specimens of each of Respondent's advertisements and promotional material for such products and services.

13. Documents sufficient to show Respondent's annual advertising and promotional expenditures for its products and services sold, licensed, or distributed under the SPIRIT WITH STYLE mark.

14. All documents that relate or refer to manufacture of products that bear the SPIRIT WITH STYLE.

15. Documents sufficient to show Respondent's annual unit sales, in dollars and units, from the sale, license, or distribution of products and services under the SPIRIT WITH STYLE mark.

16. All documents that relate or refer to the sale, license, or distribution of products and services using the SPIRIT WITH STYLE mark.

17. Documents sufficient to identify all of Respondent's wholesale customers for products and services using the SPIRIT WITH STYLE mark.

18. All documents that relate or refer to the channels of sale, license, or distribution of products and services using the SPIRIT WITH STYLE mark.

19. All documents that comprise or relate to any annual report, profit and loss statement, or other financial report for any Respondent or any business entity controlled in whole

or in part by respondent that include any revenues or expenditures relating to manufacture, distribution, sale, advertising, or marketing of products or services using the SPIRIT WITH STYLE mark.

20. All documents that comprise or refer or relate to any trademark, trade name, or service mark searches or other investigations conducted by or on behalf of Respondent relating to the SPIRIT WITH STYLE mark.

21. All documents that identify or refer or relate to the types or classes of intended purchasers of each of Respondent's products or services sold or distributed under the SPIRIT WITH STYLE mark.

22. All documents that relate or refer to Respondent, or Respondent's goods or services sold under the SPIRIT WITH STYLE mark.

23. All documents that relate or refer to the territorial areas in the United States in which Respondent has sold, licensed, or distributed goods or services using the SPIRIT WITH STYLE mark.

24. All documents that relate or refer to any use by a third party of a trademark or service mark containing SPIRIT, STYLE, or both SPIRIT and STYLE.

25. All documents that refer or relate to any instances of actual confusion or mistake that have or may have occurred between Respondent, Respondent's goods or services, or Respondent's SPIRIT WITH STYLE mark and Petitioner, Petitioner's goods or services, or Petitioner's SPIRIT WITH STYLE mark.

Respectfully submitted,

YOUNG BASILE HANLON &  
MACFARLANE PC

/Craig A. Redinger/

Craig A. Redinger  
Michigan Bar  
Reg. No. 55,886

T: (734) 662-0270

F: (734) 662-1014

3001 West Big Beaver Road, St. 624  
Troy, Michigan 48084-3107

**CERTIFICATE OF SERVICE**

I, Craig A. Redinger, an attorney for Petitioner, hereby certify that a copy of the foregoing **PETITIONER'S FIRST REQUEST TO RESPONDENT FOR PRODUCTION OF DOCUMENTS** was served on counsel for Respondent, Andrea Sager of Andrea Sager Law PLLC, via email at [andrea@andreasager.com](mailto:andrea@andreasager.com) on June 2, 2020.

/Craig A. Redinger/

# Exhibit B

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent.

Cancellation No. 92072563

Mark: SPIRIT WITH STYLE  
Reg. No. 5654838

**RESPONDENT'S RESPONSE TO PETITIONER'S  
FIRST REQUEST FOR ADMISSIONS**

Respondent Shay Snipe ("Respondent") by and through her attorneys, Andrea Sager Law PLLC, responds to Petitioner Logofit, LLC's ("Petitioner"), First Set of Requests for Admissions under Rule 36 of the Federal Rules of Civil Procedure as follows:

**GENERAL OBJECTIONS**

1. Respondent objects to the Requests to the extent that they seek to broaden the scope of discovery beyond that permitted by, or to impose obligations more extensive, burdensome or expansive than those required by, the Federal Rules of Civil Procedure and TTAB Rules of Practice.

2. Respondent objects to the definition of "Respondent" as overly broad and unduly burdensome because the definition of "Respondent" includes Shay Sipe's "predecessors and successors in interest, any parents, subsidiaries and related organizations, and the officers,

directors, employees, agents, and representatives thereof,” but Shay Sipe is the only party other than Petitioner named in this action.

3. Respondent objects to the definition of “relate or refer to” as vague and ambiguous because the phrase “directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter” renders the definition so broad that Petitioner does not understand what subject matter is encompassed in this definition.

4. Respondent does not hereby admit, adopt, or acquiesce to any factual or legal contention, assertion, or characterization that is contained in the Requests.

### **REQUESTS FOR ADMISSION**

#### **REQUEST FOR ADMISSION NO. 1**

Admit that there are no differences in the standard text of Petitioner’s SPIRIT WITH STYLE mark and the standard text of Respondent’s SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 1**

Admitted.

#### **REQUEST FOR ADMISSION NO. 2**

Admit that there are no differences in the appearance of Petitioner’s SPIRIT WITH STYLE mark and the appearance of Respondent’s SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 2**

Deny. Respondent denies this request because Petitioner’s SPIRIT WITH STYLE is used by Petitioner in a manner that its appearance is different than the appearance of the way Respondent uses its SPIRIT WITH STYLE mark.

#### **REQUEST FOR ADMISSION NO. 3**

Admit that there are no differences in the sound of Petitioner’s SPIRIT WITH STYLE mark and the sound of Respondent’s SPIRIT WITH STYLE mark.



**RESPONSE TO REQUEST FOR ADMISSION NO. 3**

Admitted.

**REQUEST FOR ADMISSION NO. 4**

Admit that there are no differences in the connotation of Petitioner's SPIRIT WITH STYLE mark and the connotation of Respondent's SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 4**

Deny. There is a difference in the connotation of Petitioner's SPIRIT WITH STYLE mark and the connotation of Respondent's SPIRIT WITH STYLE mark.

**REQUEST FOR ADMISSION NO. 5**

Admit that there are no differences in the commercial impression of Petitioner's SPIRIT WITH STYLE mark and the commercial impression of Respondent's SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 5**

Deny. There are differences in the commercial impression of Petitioner's SPIRIT WITH STYLE mark and the commercial impression of Respondent's SPIRIT WITH STYLE mark as used in connection with the parties' respective goods and services.

**REQUEST FOR ADMISSION NO. 6**

Admit that the term "spirit" in Respondent's SPIRIT WITH STYLE MARK refers to "school spirit."

**RESPONSE TO REQUEST FOR ADMISSION NO. 6**

Deny. The term "spirit" in Respondent's mark is suggestive of many types of spirit and it does not only mean "school spirit."

**REQUEST FOR ADMISSION NO. 7**

Admit that the website that was available at <http://spiritwithstyle.com/> included a category titled "School Spirit." (See, e.g., LGF06470).

**RESPONSE TO REQUEST FOR ADMISSION NO. 7**

Admitted.

**REQUEST FOR ADMISSION NO. 8**

Admit that Shay Sipe said “I have grown up around my mom’s screen printing business Cattilac Style since 1983. I loved watching people’s expressions when they picked up their shirts that we created for them. Our designs are very unique and I saw there was a need for fun, detailed, & colorful designs or school spirit t-shirts. We have showcased our designs at FFA, FCCLA, PTA, Atlanta Market, Dallas Market, and the WWIN. I wanted to separate our screen printing business and our wholesale side, so that’s when we started calling it ‘Spirit With Style’ in 2015. We are your one stop wholesale shop for all your School Spirit, Sport or Holiday needs.” (See LGF06471-06482).

**RESPONSE TO REQUEST FOR ADMISSION NO. 8**

Admitted.

**REQUEST FOR ADMISSION NO. 9**

Admit that Respondent sells clothing using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 9**

Admitted.

**REQUEST FOR ADMISSION NO. 10**

Admit that Respondent has sold clothing to consumers using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 10**

Admitted.

**REQUEST FOR ADMISSION NO. 11**

Admit that Respondent has sold clothing at wholesale using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11**

Admitted.

**REQUEST FOR ADMISSION NO. 12**

Admit that Respondent sells hats using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12**

Admitted.

**REQUEST FOR ADMISSION NO. 13**

Admit that Respondent has sold hats to consumers using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 13**

Admitted.

**REQUEST FOR ADMISSION NO. 14**

Admit that Respondent has sold hats at wholesale using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 14**

Admitted.

**REQUEST FOR ADMISSION NO. 15**

Admit that Respondent has sold clothing to school groups using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 15**

Respondent objects to this request for admission because the wording “school groups” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 16**

Admit that Respondent has sold clothing to sports teams using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 16**

Respondent objects to this request for admission because the term “sports teams” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 17**

Admit that Respondent has sold clothing decorated with designs that relate to education using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 17**

Respondent objects to this request for admission because the terms “designs that relate to education” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 18**

Admit that Respondent has sold clothing decorated with designs that relate to sports using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 18**

Respondent objects to this request for admission because term “designs that relate to sports” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 19**

Admit that Respondent’s clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell hats, scarves, gloves, and mittens.

**RESPONSE TO REQUEST FOR ADMISSION NO. 19**

Respondent admits that Respondent’s clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that sell hats. Respondent does not have knowledge as to whether or clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell scarves, gloves, and mittens, and therefore denies this portion of the request.

**REQUEST FOR ADMISSION NO. 20**

Admit that Respondent’s clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell books.

**RESPONSE TO REQUEST FOR ADMISSION NO. 20**

Respondent does not have knowledge as to whether or not clothing bearing the SPIRIT WITH STYLE mark has been sold in stores that also sell books, and therefore denies this request.

**REQUEST FOR ADMISSION NO. 21**

Admit that Respondent possesses, controls, or has custody of [www.spiritwithstyle.com](http://www.spiritwithstyle.com).

**RESPONSE TO REQUEST FOR ADMISSION NO. 21**

Admitted.

**REQUEST FOR ADMISSION NO. 22**

Admit that Respondent possesses, controls, or has custody of [www.spiritwithstylewholesale.com](http://www.spiritwithstylewholesale.com).

**RESPONSE TO REQUEST FOR ADMISSION NO. 22**

Admitted.

**REQUEST FOR ADMISSION NO. 23**

Admit that Respondent created a business page on Facebook for SPIRIT WITH STYLE on or around January 20, 2014.

**RESPONSE TO REQUEST FOR ADMISSION NO. 23**

Admitted.

**REQUEST FOR ADMISSION NO. 24**

Admit that Respondent created a group on Facebook for SPIRIT WITH STYLE VIP WHOLESALE on or around April 12, 2017.

**RESPONSE TO REQUEST FOR ADMISSION NO. 24**

Denied, Respondent did not create a group on Facebook for “SPIRIT WITH STYLE VIP WHOLESALE.”

**REQUEST FOR ADMISSION NO. 25**

Admit that Respondent changed the name of the SPIRIT WITH STYLE VIP WHOLESALE Facebook group to SPIRIT WITH STYLE WHOLESALE GRAPHIC TEES on or around February 27, 2019.

**RESPONSE TO REQUEST FOR ADMISSION NO. 25**

Admitted.

**REQUEST FOR ADMISSION NO. 26**

Admit that Respondent possesses, controls, or has custody of the Instagram account named SPIRITWITHSTYLE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 26**

Admitted.

**REQUEST FOR ADMISSION NO. 27**

Admit that Respondent has published, through the Instagram account named SPIRITWITHSTYLE, photos that show shirts and hats together.

**RESPONSE TO REQUEST FOR ADMISSION NO. 27**

Admitted.

**REQUEST FOR ADMISSION NO. 28**

Admit that Respondent first used SPIRIT WITH STYLE in relation to clothing on August 1, 2014.

**RESPONSE TO REQUEST FOR ADMISSION NO. 28**

Respondent objects to this request for admission because terms “in relation to clothing” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 29**

Admit that Respondent first used SPIRIT WITH STYLE in commerce in relation to clothing on May 1, 2015.

**RESPONSE TO REQUEST FOR ADMISSION NO. 29**

Respondent objects to this request for admission because terms “in relation to clothing” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it. Respondent also objects to this Request for Admission as improperly seeking a legal conclusion, and therefore denies this request.

**REQUEST FOR ADMISSION NO. 30**

Admit that Respondent uses the SPIRIT WITH STYLE mark with shirts.

**RESPONSE TO REQUEST FOR ADMISSION NO. 30**

Admitted.

**REQUEST FOR ADMISSION NO. 31**

Admit that Respondent uses the SPIRIT WITH STYLE mark with headwear.

**RESPONSE TO REQUEST FOR ADMISSION NO. 31**

Admitted.

**REQUEST FOR ADMISSION NO. 32**

Admit that Respondent does not use the SPIRIT WITH STYLE mark with clothing bottoms.

**RESPONSE TO REQUEST FOR ADMISSION NO. 32**

Admitted.

**REQUEST FOR ADMISSION NO. 33**

Admit that Respondent did not, as of May 1, 2015, use the SPIRIT WITH STYLE mark with clothing bottoms.

**RESPONSE TO REQUEST FOR ADMISSION NO. 33**

Deny

**REQUEST FOR ADMISSION NO. 34**

Admit that Respondent did not, as of May 29, 2018, use the SPIRIT WITH STYLE mark with clothing bottoms.

**RESPONSE TO REQUEST FOR ADMISSION NO. 34**

Deny

**REQUEST FOR ADMISSION NO. 35**

Admit that Respondent has displayed and offered for sale clothing to individual consumers at the Dallas Apparel Market using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 35**

Admitted.

**REQUEST FOR ADMISSION NO. 36**

Admit that Respondent has displayed and offered for sale clothing to individual consumers at the Dallas Apparel Market using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR ADMISSION NO. 36**

Admitted. Respondent objects to this request as duplicative of Request for Admission No. 35.

**REQUEST FOR ADMISSION NO. 37**

Admit that Respondent's goods are not expensive.

**RESPONSE TO REQUEST FOR ADMISSION NO. 37**

Respondent objects to this request for admission because the term “expensive” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 38**

Admit that due to the inexpensive price of Respondent’s goods, customers likely do not use a high degree of care in their purchasing decisions.

**RESPONSE TO REQUEST FOR ADMISSION NO. 38**

Respondent objects to this request for admission because the term “inexpensive” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 39**

Admit that Petitioner has not licensed Respondent to use any of Petitioner’s marks.

**RESPONSE TO REQUEST FOR ADMISSION NO. 39**

Admitted.

**REQUEST FOR ADMISSION NO. 40**

Admit that Respondent has displayed and offered for sale clothing to individual consumers at the business known as CATTILAC STYLE, having a place of business at 2317 S. Danville Drive, Abilene, Texas, 79605 (herein, “CATTILAC STYLE”).

**RESPONSE TO REQUEST FOR ADMISSION NO. 40**

Admitted

**REQUEST FOR ADMISSION NO. 41**

Admit that Respondent has sold clothing using the SPIRIT WITH STYLE MARK decorated with designs created by employees CATTILAC STYLE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 41**

Respondent objects to this request for admission because the term “employees CATTILAC STYLE” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 42**

Admit that Respondent has sold clothing using the SPIRIT WITH STYLE mark decorated with designs that have also been used to decorate clothing sold using the CATTILAC STYLE mark.



**RESPONSE TO REQUEST FOR ADMISSION NO. 42**

Respondent objects to this request for admission because the term “CATTILAC STYLE mark” is vague and ambiguous such that Respondent is unable to respond to this request, and therefore denies it.

**REQUEST FOR ADMISSION NO. 43**

Admit that Respondent’s SPIRIT WITH STYLE mark is owned by CATTILAC STYLE.

**RESPONSE TO REQUEST FOR ADMISSION NO. 43**

Denied.

**REQUEST FOR ADMISSION NO. 44**

Admit that Shay Sipe was not the sole owner of CATTILAC STYLE on May 29, 2018.

**RESPONSE TO REQUEST FOR ADMISSION NO. 44**

Admitted.

**REQUEST FOR ADMISSION NO. 45**

Admit that Shay Sipe was not the sole owner of CATTILAC STYLE on May 1, 2015.

**RESPONSE TO REQUEST FOR ADMISSION NO. 45**

Admitted.

Dated: July 2, 2020

Respectfully submitted,

By: /Andrea Sager/

Andrea Sager

Attorney for Respondent  
Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 2nd day of July, 2020, a true and correct copy of the foregoing **RESPONDENT'S RESPONSES AND OBJECTIONS TO APPLICANT'S FIRST REQUEST TO RESPONDENT FOR ADMISSIONS** is being served by email upon  
Petitioner's counsel:

CRAIG A REDINGER  
YOUNG BASILE HANLON & MACFARLANE PC  
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TROY, MI 48084-3107  
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/Andrea Sager/ \_\_\_\_\_  
Andrea Sager

Attorney for Respondent  
Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent.

Cancellation No. 92072563

Mark: SPIRIT WITH STYLE  
Reg. No. 5654838

**RESPONDENT'S RESPONSES AND OBJECTIONS TO PETITIONER'S  
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Respondent Shay Snipe ("Respondent") by and through her attorneys, Andrea Sager Law PLLC, responds to Petitioner Logofit, LLC's ("Petitioner") First Request to Respondent for Production of Documents as follows upon personal knowledge as to her own acts and otherwise upon information and belief:

**GENERAL OBJECTIONS**

1. Respondent objects to the Requests to the extent that they seek to broaden the scope of discovery beyond that permitted by, or to impose obligations more extensive, burdensome or expansive than those required by, the Federal Rules of Civil Procedure and TTAB Rules of Practice.

2. Respondent objects to the definition of "Respondent" as overly broad and unduly burdensome because the definition of "Respondent" includes Shay Sipe's "predecessors and successors in interest, any parents, subsidiaries and related organizations, and the officers,

directors, employees, agents, and representatives thereof,” but Shay Sipe is the only party other than Petitioner named in this action.

3. Respondent objects to the definition of “relate or refer to” as vague and ambiguous because the phrase “directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon, or resulting from the stated subject matter” renders the definition so broad that Petitioner does not understand what subject matter is encompassed in this definition.

4. By agreeing to produce documents responsive to a particular Request, Respondent is not representing that such documents actually exist, or that such documents are in its possession, custody or control.

5. Respondent will answer the Requests based on the best of its present knowledge, information, and belief. The answers are, at all times, subject to such additional or different information that discovery or future investigation may disclose, and such additional knowledge or facts as may result from either discovery or investigation. Registrant reserves the right to supplement or amend its answers upon, among other things, discovery of additional facts and materials and other developments in this proceeding.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1**

All documents that relate or refer to Respondent’s initial disclosures pursuant to Federal Rule of Civil Procedure 26(a).

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 1**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is

overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request.

Subject to and without waiver of the foregoing objections, Respondent is unable to ascertain what documents are responsive to this request, and therefore Respondent will not produce documents in response to this request until Petitioner narrows the scope of the request.

#### **REQUEST FOR PRODUCTION NO. 2**

All documents that relate or refer to responses to Petitioner’s First Set of Interrogatories.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 2**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the

burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents regarding Petitioner’s First Set of Interrogatories, and Respondent has objected to Petitioner’s First Set of Interrogatories on grounds that the interrogatories are excessive in number. A party may properly refuse to respond to a document request seeking all documents identified or referred to in response to interrogatories if the number of interrogatories is believed to be excessive. TBMP § 405.03(e).

Subject to and without waiver of the foregoing objections, Respondent will not produce documents in response to this request until Petitioner narrows the number of Interrogatories.

### **REQUEST FOR PRODUCTION NO. 3**

All documents that relate or refer to trademarks or service marks cited or quoted in Respondent’s Answer to the Petition.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 3**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other

materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, Respondent will not produce documents in response to this request until Petitioner narrows the scope of the request.

#### **REQUEST FOR PRODUCTION NO. 4**

All documents that comprise or relate to agreements regarding Respondent’s ownership of any business entity, including the business known as CATTILAC STYLE, having a place of business at 2317 S. Danville Drive, Abilene, Texas, 79605 (herein, “CATTILAC STYLE”).

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 4**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate to” are vague and ambiguous as defined in the instructions for the First Request



for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner's instructions define "documents" as including but not limited to "all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process," which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 5**

All documents that comprise or relate to regarding ownership, use, or licensing of Respondent's SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 5**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the

burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 6**

All documents that relate or refer to Respondent's consideration, selection, adoption, or first use of the SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 6**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for "all documents." Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms "relate to" are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner's instructions define

“documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 7**

All documents that relate or refer to Respondent’s use in commerce of the SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 7**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the

identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 8**

Representative samples of each product in connection with which Respondent has ever used the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 8**

Respondent objects to this request as overbroad and unduly burdensome to the extent this request seeks representative samples of “each product in connection with which Respondent has ever used the SPIRIT WITH STYLE mark” because Respondent has sold hundreds of different styles of products bearing the SPIRIT WITH STYLE mark.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 9**

All documents comprising or identifying items on which Respondent has used the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 9**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the

identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner's instructions define "documents" as including but not limited to "all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process," which would require Respondent to search for all such documents to respond to this request. Respondent further objects to this request to the extent that the terms "comprising or identifying" as vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

**REQUEST FOR PRODUCTION NO. 10**

All documents that relate or refer to the manner in which Respondent has used the SPIRIT WITH STYLE mark.

## **RESPONSE TO REQUEST FOR PRODUCTION NO. 10**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “refer or relate to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other



materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 11**

All documents that relate or refer to Respondent’s Application Serial No. 87939622, Respondent’s Registration Serial No. 5654838, and any other attempts to register the SPIRIT WITH STYLE mark in the United States.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 11**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms

“relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

**REQUEST FOR PRODUCTION NO. 12**

All documents that relate or refer to the advertising or promotion of products or services using the SPIRIT WITH STYLE mark, including, but not limited to, representative specimens of each of Respondent’s advertisements and promotional material for such products and services.

## **RESPONSE TO REQUEST FOR PRODUCTION NO. 12**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other

materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 13**

Documents sufficient to show Respondent’s annual advertising and promotional expenditures for its products and services sold, licensed, or distributed under the SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 13**

Respondent incorporates its foregoing General Objections as though fully set forth herein. Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 14**

All documents that relate or refer to manufacture of products that bear the SPIRIT WITH STYLE.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 14**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is

overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

**REQUEST FOR PRODUCTION NO. 15**

Documents sufficient to show Respondent's annual unit sales, in dollars and units, from the sale, license, or distribution of products and services under the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 15**

Respondent incorporates its foregoing General Objections as though fully set forth herein. Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

**REQUEST FOR PRODUCTION NO. 16**

All documents that relate or refer to the sale, license, or distribution of products and services using the SPIRIT WITH STYLE mark.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 16**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for "all documents." Respondent further objects to this request to the extent that it seeks information concerning matters, or the

identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 17**

Documents sufficient to identify all of Respondent's wholesale customers for products and services using the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 17**

Respondent incorporates its foregoing General Objections as though fully set forth herein. Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 18**

All documents that relate or refer to the channels of sale, license, or distribution of products and services using the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 18**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for "all documents." Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded



by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous as defined in the instructions for the First Request for Production such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

**REQUEST FOR PRODUCTION NO. 19**

All documents that comprise or relate to any annual report, profit and loss statement, or other financial report for any Respondent or any business entity controlled in whole or in part by respondent that include any revenues or expenditures relating to manufacture, distribution, sale, advertising, or marketing of products or services using the SPIRIT WITH STYLE mark.

## **RESPONSE TO REQUEST FOR PRODUCTION NO. 19**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “comprise or relate to” are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any

process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 20**

All documents that comprise or refer or relate to any trademark, trade name, or service mark searches or other investigations conducted by or on behalf of Respondent relating to the SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 20**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “comprise or refer or relate to” are vague and ambiguous such that Respondent is unable

to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner's instructions define "documents" as including but not limited to "all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process," which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 21**

All documents that identify or refer or relate to the types or classes of intended purchasers of each of Respondent's products or services sold or distributed under the SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 21**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the

burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “identify or refer or relate to” are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive,

non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 22**

All documents that relate or refer to Respondent, or Respondent's goods or services sold under the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 22**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for "all documents." Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms "relate or refer to" are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner's instructions define "documents" as including but not limited to "all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders,

receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request. Respondent objects to this request to the extent that it seeks all documents that refer to “Respondent,” including those that have no bearing on this case and those that are not likely to lead to the discovery of admissible evidence.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

### **REQUEST FOR PRODUCTION NO. 23**

All documents that relate or refer to the territorial areas in the United States in which Respondent has sold, licensed, or distributed goods or services using the SPIRIT WITH STYLE mark.

### **RESPONSE TO REQUEST FOR PRODUCTION NO. 23**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to

this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.



## **REQUEST FOR PRODUCTION NO. 24**

All documents that relate or refer to any use by a third party of a trademark or service mark containing SPIRIT, STYLE, or both SPIRIT and STYLE.

## **RESPONSE TO REQUEST FOR PRODUCTION NO. 24**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “relate or refer to” are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars,

price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request. Respondent further objects to this request to the extent it seeks documents or information that is not within Respondent’s possession, custody, or control.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place.

#### **REQUEST FOR PRODUCTION NO. 25**

All documents that refer or relate to any instances of actual confusion or mistake that have or may have occurred between Respondent, Respondent’s goods or services, or Respondent’s SPIRIT WITH STYLE mark and Petitioner, Petitioner’s goods or services, or Petitioner’s SPIRIT WITH STYLE mark.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 25**

Respondent incorporates its foregoing General Objections as though fully set forth herein, and additionally objects to this request on the grounds that this request is overbroad, unduly burdensome, not proportional to the needs of this case, and that the burden and expense of responding to this request outweighs its likely benefit to this proceeding to the extent that it calls for “all documents.” Respondent further objects to this request to the extent that it seeks information concerning matters, or the

identification of documents, protected from disclosure by the attorney-client privilege, by the attorney work-product doctrine, and by the limitations and restrictions on discovery provided by the Federal Rules of Civil Procedure and TTAB Rules of Practice, or prior rulings, or by any other privilege or protection from discovery afforded by applicable law. Respondent further objects to this request to the extent that the terms “refer or relate to” are vague and ambiguous such that Respondent is unable to ascertain the meaning sufficiently to respond to this request. Respondent further objects to this request as overbroad, burdensome, and oppressive to the extent that Petitioner’s instructions define “documents” as including but not limited to “all writings, correspondence, books, internal memoranda, invoices, contracts, purchase orders, receipts, pamphlets, publications, catalogs, labels, packaging, displays, photographs, slides, videotapes, films, artwork, drawings, sketches, illustrative materials, circulars, price lists, advertisements, layouts, tear sheets, magnetic recording tapes, microfilms and other storage means by which information is retained in retrievable form, and all other materials whether printed, typewritten, handwritten, recorded, or reproduced by any process,” which would require Respondent to search for all such documents to respond to this request. Respondent further objects to this request to the extent it seeks documents or information that is not within Respondent’s possession, custody, or control.

Subject to and without waiver of the foregoing objections, and to the extent Respondent understands this request, Respondent will produce responsive,

non-privileged documents located after a reasonable search at a mutually agreed time and place.

Dated: July 2, 2020

Respectfully submitted,

By: /Andrea Sager/

Andrea Sager

Attorney for Respondent  
Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 2nd day of July, 2020, a true and correct copy of the foregoing **RESPONDENT'S RESPONSES AND OBJECTIONS TO APPLICANT'S FIRST REQUEST FOR PRODUCTION** is being served by email upon Petitioner's counsel:

CRAIG A REDINGER  
YOUNG BASILE HANLON & MACFARLANE PC  
3001 WEST BIG BEAVER RD STE 624  
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UNITED STATES  
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Phone: 734-662-0270

/Andrea Sager/ \_\_\_\_\_  
Andrea Sager

Attorney for Respondent  
Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent.

Cancellation No. 92072563

Mark: SPIRIT WITH STYLE  
Reg. No. 5654838

**RESPONDENT'S GENERAL OBJECTION TO PETITIONER'S  
FIRST SET OF INTERROGATORIES**

Pursuant to 37 C.F.R. § 2.120(d), Respondent enters a general objection to Petitioner's First Set of Interrogatories, and each of them, on the ground that they are excessive in number. *See* TBMP § 405.03(e). Respondent reserves any and all additional general and specific objections to each interrogatory that Petitioner has served or may serve herein, and the right to substantively respond to any such written discovery if or when served in compliance with the applicable rules.

Date: July 2, 2020

Respectfully submitted,  
By: /Andrea Sager/

Andrea Sager

Attorney for Respondent  
Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

**CERTIFICATE OF SERVICE**

It is hereby certified that on this 2nd day of July, 2020, a true and correct copy of the foregoing **RESPONDENT'S GENERAL OBJECTION TO PETITIONER'S FIRST SET OF INTERROGATORIES** is being served by email upon Petitioner's counsel:

CRAIG A REDINGER  
YOUNG BASILE HANLON & MACFARLANE PC  
3001 WEST BIG BEAVER RD STE 624  
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Phone: 734-662-0270

/Andrea Sager/ \_\_\_\_\_  
Andrea Sager

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# Exhibit C



# YOUNG BASILE

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July 21, 2020

Andrea Sager  
Andrea Sager Law PLLC  
713 Llano St  
Pasadena, TX 77504

RE: LogoFit, LLC v. Shay Sipe  
U.S. TTAB Cancellation No. 92072563  
YB Ref.: LGF-105

Dear Andrea:

I write regarding Respondent Shay Sipe's ("Sipe" or "Respondent") responses to LogoFit, LLC's ("LogoFit") First Set of Requests for Production of Document and Things, First Set of Interrogatories, and First Set of Requests for Admissions.

Based on our review of Sipe's responses to date, in addition to production being untimely, the responses are deficient in numerous respects. It is obvious that Sipe has not undertaken a meaningful or thorough review of its documents and records, which is particularly concerning given the history of this proceeding.

Both the Board Rules and the Federal Rules require that we *meet and confer* prior to filing our motion to compel. As such, please provide us with your availability for a meet and confer telephone conference this week. We are openly available.

The following list of deficiencies is not exhaustive. LogoFit reserves the right to bring other deficiencies to Respondent's attention during the parties' meet and confer call or otherwise.

## A. Interrogatories

LogoFit timely propounded 28 numbered interrogatories on Sipe on June 2, 2020. Yet, Sipe responded with a general objection on the ground that they are excessive in number.

The Board Rules provide for 75 numbered interrogatories. See, 37 C.F.R. § 2.120(d). LogoFit's 28 propounded interrogatories contain no subparts. As such, Sipe's objection is both baseless and obstructive.

LogoFit requests that Sipe immediately respond to the propounded interrogatories accordingly. If Sipe is not prepared to provide responses, then Sipe should be prepared to discuss the details of its general objection during the meet and confer conference.

## **B. Requests for Production of Documents and Things.**

Aside from the General Objections, Sipe made unsubstantiated objections to the vast majority of Document Requests. Each are addressed briefly in turn.

### **Request Nos. 1 and 3**

These requests seek documents that refer or relate to Sipe's Initial Disclosures and Sipe's Answer.

Respondent has refused to produce said documents on the grounds that "Respondent is unable to ascertain what documents are responsive to this request," or that Respondent "will not produce documents in response to this request until Petitioner narrows the scope of the request," or both.

Sipe is reminded that Sipe prepared its Initial Disclosures and its various supplemental disclosures as well as its Answer. Sipe has knowledge of these documents and any documents identified therein. Initial Disclosures and Pleadings are defined in the TBMP and the FRCP. Now armed with this knowledge, Respondent should "ascertain" that Requests Nos. 1 and 3 have a scope that includes documents identified in its Initial Disclosures and its pleading.

LogoFit requests that Sipe immediately respond to Request Nos. 1 and 3 accordingly. If Sipe is not prepared to provide responses and production, then Sipe should be prepared to discuss the details of its objection during the meet and confer conference.

### **Request No. 2**

This Request seeks documents that "relate or refer to responses to Petitioner's First Set of Interrogatories."

Respondent has objected to this Request and indicated that it "will not produce documents in response to this request until Petitioner narrows the number of Interrogatories."

As indicated above, Petitioner propounded 28 of the 75 Interrogatories allotted under Board Rules. Accordingly, Sipe's objection is baseless and Sipe's refusal is obstructive.

LogoFit requests that Sipe immediately respond to Request No. 2, accordingly. If Sipe is not prepared to provide responses and production, then Sipe should be prepared to discuss the details of its objection during the meet and confer conference.

### **Requests Nos. 5-25**

In response to each of these Document Requests, Respondent has indicated that it will "produce responsive, non-privileged documents located after a reasonable search at a mutually agreed time and place."

Andrea Sager  
Andrea Sager Law PLLC  
Page 3 of 3  
July 21, 2020

Respondent's obligation under the discovery rules was to produce documents by July 2, 2020 and to continue to supplement its production as proceedings continue.

Based on Respondent's response, it appears that Respondent has not satisfied its discovery obligations. To date, no documents have been received by LogoFit. Nor has Respondent presented a Privilege Log.

Respondent should be prepared to discuss its lack of production during the meet and confer.

### **Requests for Admission**

Request Nos. 15 – 18, 28-29, 37-38, and 41-42

Respondent objected to these requests for admission on the grounds that certain language, such as "in relation to clothing" or "sports teams" or "expensive," is vague and ambiguous such that Respondent is unable to respond to this request.

LogoFit submits that such language is well-understood in the trademark field and in the apparel industry. These terms carry their plain meaning.

LogoFit requests that Sipe immediately provide amended responses to these Requests, accordingly. If Sipe is not prepared to provide responses and production, then Sipe should be prepared to discuss the details of its objection during the meet and confer conference.

\*\*\*\*\*

This is a good faith attempt to meet and confer concerning Respondent's discovery objections and missing production.

We would like to address these issues this week. Again, please indicate your availability.

Very Truly Yours,

/Casimir W. Cook II/  
Attorney for Petitioner

# Exhibit D

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent

Cancellation No. 92072318

**RESPONDENT'S FIRST SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS AND THINGS TO PETITIONER**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and the Trademark Rules of Practice, Respondent, Shay Sipe ("Respondent"), by counsel, hereby requests that Petitioner, LogoFit, LLC ("Petitioner"), produce the following documents and things that are in Petitioner's possession, custody, or control.

**DEFINITIONS**

The following definitions apply to and are deemed incorporated into each question in this first request for production of documents and things:

1. "LogoFit, LLC" "you," "your," or "Respondent" means LogoFit, LLC, and any officers, directors, employees, counsel, agents, representatives, or other persons under his control, any predecessor or successor whether incorporated or not, any division, subsidiary or affiliate of LogoFit, LLC, and those persons in active concert or participation with him.
2. The term "Petitioner's Mark" means "Spirit With Style."

3. "Communication" means all discussions, conversations, interviews, negotiations, cable grams, mail grams, e-mails, telegrams, telexes, facsimile transmissions, cables, letters, confirmations, or other forms of written or verbal discourse, however transmitted, including reports, notes, electronic files and databases, memoranda, lists, agenda and other documents and records.

4. The term "date" means the exact day, month and year, if ascertainable, and if not, the best approximation, including any relationship to any other events.

5. The term "document" and "documents" are intended to be comprehensive and to include, without limitation, any and all written, printed, typed, photographic, electronic files and databases, recorded, or graphic materials, however produced or reproduced, whether readable visually or with the assistance of any machine, including all originals, copies, drafts, additions, forms, or versions of all notes, files, reports, books, book entries, accounting materials, ledgers, orders, invoices, statements, bills, checks and vouchers, studies, summaries, surveys, searches, statistical compilations, analyses, diagrams, illustrations, charts, minutes, resolutions, letters, correspondence, inter-office communications, electronic mail or the equivalent, computer print outs, memoranda, telegrams, teletypes, cables, publications, facsimile transmissions, telexes, information that has or will be posted on the Internet, contracts, agreements, applications, pleadings, court papers, recordings, video or audio tapes, phonographic records, sound recordings, transcripts, magnetic storage media, records, corporate or business records of forms, manuals, brochures, schedules, price lists, calendars, telephone bills or logs, diaries, and any evidence, reports, or recordings of in person or telephone communications, interviews, conferences, committee meetings, meetings or other communications by or with any person or entity and includes the original of such document or a copy of the original if the original is not available, as well as any copies not identical to the original

including any copies that are different by reason of notes, changes, initials, or identification Mark and including, without limitation, any draft of such documents.

“Documents” also shall be construed to mean each and every copy of such writings or records where the original is not in the possession, custody or control of Petitioner, and each and every copy of such writing or record, where such copy contains any commentary or notation whatsoever that does not appear on the original. In all cases where originals and/or non-identical copies are not available, “documents” also means identical copies of original documents and copies of non-identical documents.

6. The term “identify”:

a. When used in reference to a natural person, requests such person’s full name, date of birth, business affiliation, present or last known residence and business addresses, job title, dates of employment, and business and residential telephone number.

b. When used in reference to an organization or entity, requests the organization’s full and complete name, the principal place of business, the legal nature of the organization, the state of incorporation or partnership, the date on which the organization commenced doing business, each and every officer in the organization, and the principals of the organization.

c. When used in reference to a document, requests the name and type of the document, the date of the document, the preparer, sender, and recipient of the document, a brief description of the document’s subject matter, the date and manner of distribution and/or publication, if any, the location of each copy and the identity of the present custodians with sufficient particularity as would allow the document to be sought by subpoena duces tecum or under Rule 35 of the

Federal Rules of Civil Procedure, the identity of the person or persons who can identify it, the contents of the document verbatim, and if privilege is claimed, the specific basis therefor. Documents to be identified include both documents in Petitioner's possession, custody, and control, and all other documents of which Petitioner has knowledge.

d. When used in connection with oral statements, communications, negotiations or discussions, state when and where they took place, identify each of the participants and witnesses thereto, and all others present, indicate the form of communication, and state the substance of the communication.

e. When used in reference to a thing or an event, include a brief description of the thing or event, the date, the identities of all persons who have personal or corporate knowledge of it, and the identity of the documents relating to it.

7. "Person" and "persons" shall refer to any natural person, association, partnership, corporation, organization, business trust, joint venture, receiver, estate syndicate or any other combination acting as a unit or acting as form of legal entity, including the parties to this suit and their officers, agents, employees and representatives.

8. "Referring", "relating to", "concerning", and "pertaining to" mean mentioning, discussing, summarizing, describing, referring to, depicting, evidencing, reflecting, embodying, constituting, concerning, containing, contradicting, identifying, responding to, comprising, including, regarding, reporting or in any way involving.

9. "Employee or agent" and "employees or agents" shall mean all persons currently or previously employed, including, without limitation, officers, directors, employees, agents, attorneys, accountants, representatives, or others acting for or on behalf of a



person.

### **INSTRUCTIONS**

The following instructions apply to and are deemed incorporated into each question in this first request for production of documents and things:

1. Documents shall be produced as they are kept in the ordinary course of business or, in the alternative, organized and labeled so as to correspond to the document requests.
2. These requests are intended to cover all documents and things in your possession, custody or control. A document or thing is deemed to be in your possession, custody, or control if:
  - a. it is in your physical control; or
  - b. if it is in the physical control of any other person or entity, and you
    - i. own the document or thing in whole or in part;
    - ii. have right by contract, statute, or otherwise to use, inspect, examine or copy that document or thing on any terms; or
    - iii. have, as a practical matter, been able to use, inspect, examine or copy that document or thing when it is sought to do so or could do so.
3. If any document requested was formerly in your possession, custody, or control and has since been lost or destroyed, you shall submit, in lieu of each such document, a written statement that:
  - a. identifies the document by providing the author(s), addressee(s), recipient(s), title, date, subject matter, and number of pages and identifies all persons who ever possessed copies; and
  - b. states when and how the document was lost or destroyed and, if destroyed, identifies each person having knowledge concerning such destruction or loss, the person(s) requesting and performing such destruction, the reasons for such

destruction, and each document evidencing the document's prior existence and/or facts concerning its destruction.

4. If any document or thing is withheld on grounds of privilege or work-product immunity, (i) identify the document or thing with sufficient particularity, including a description of the document's type (event, conversation, occurrence), subject matter, date, and participants, and (ii) state the legal and factual basis for the claim of privilege or work-product protection.
5. Insofar as any of these document production requests concern use of any mark or designation, such requests concern use in the United States of America and in commonwealths, territories, or other territory within the federal judicial system of the federal government of the United States of America, and not use in foreign nations.
6. Each request herein for any documents or things to be produced contemplates production of the documents or things in their entirety, without abbreviation, deletions, or redacted material and as they are kept in the ordinary course of business. File folders and notebooks with tabs or labels identifying documents must be produced in an intelligible format or with a description of the system from which the information was collected sufficient to permit rendering the materials readable, usable and subject to copying.
7. Pursuant to the Federal Rules of Civil Procedure Rule 26(e) and Rule 34, the parties have duty to supplement regularly any prior response to the extent of documents, objects, or tangible things that subsequently come into their possession or control or become known to them.
8. The words "and" and "or" are construed both conjunctively and disjunctively, and each includes the other wherever such dual construction will serve to bring within the scope of this request any documents which would otherwise not be brought within its scope. All

such terms, as well as other conjunctions and prepositions, are interpreted in the manner that provides the most complete answer and information.

9. "Each" means each and every.

10. In order to bring within the scope of these document production requests any documents or things that might otherwise be considered outside their purview, any word written in the singular is construed as plural, and in the plural as singular; verb tenses are construed to include past, present, and future tenses.

### **REQUESTS FOR PRODUCTION**

DOCUMENT REQUEST NO. 1: All Documents identified in Petitioner's initial disclosures pursuant to Federal Rule of Civil Procedure 26(a).

DOCUMENT REQUEST NO. 2: All Documents identified in response to Respondent's First Set of Interrogatories.

DOCUMENT REQUEST NO. 3: All Documents referred to or quoted in the Petition for Cancellation.

DOCUMENT REQUEST NO. 4: All Documents concerning Petitioner's knowledge of the facts alleged in the Petition for Cancellation, including, but not limited to, the circumstances surrounding Petitioner's acquisition of this knowledge.

DOCUMENT REQUEST NO. 5: All Documents relied upon by Petitioner in drafting the Petition for Cancellation.

DOCUMENT REQUEST NO. 6: All Documents concerning Petitioner's knowledge of Respondent's adoption, use, or registration of Respondent's Mark.

DOCUMENT REQUEST NO. 7: All Documents concerning Petitioner's consideration, selection, conception, creation, or adoption of the Petitioner's Mark for use on or in connection with any goods or services.

DOCUMENT REQUEST NO. 8: Documents sufficient to show the circumstances of Petitioner's first use of the Petitioner's Mark anywhere in the United States.

DOCUMENT REQUEST NO. 9: Documents sufficient to show the circumstances of Petitioner's first use of the Petitioner's Mark in United States commerce.

DOCUMENT REQUEST NO. 10: All Documents concerning United States Trademark Application Serial No. 88291356 filed by Petitioner for the Petitioner's Mark, including, but not limited to, all Documents concerning the decision to file the application and copies of all documents submitted to or received from the United States Patent and Trademark Office in connection with the application.

DOCUMENT REQUEST NO. 11: All Documents concerning any state trademark registrations sought or obtained by Petitioner for the Petitioner's Mark, including, but not limited to, copies of all documents submitted to or received from any state trademark registration agency.

DOCUMENT REQUEST NO. 12: Documents sufficient to identify all goods and services actually or planned or intended to be sold, offered, or licensed by Petitioner under or in connection with Petitioner's Mark.

DOCUMENT REQUEST NO. 13: Documents sufficient to show any planned or future development of any goods or services to be sold, offered, or licensed in connection with the Petitioner's Mark.

DOCUMENT REQUEST NO. 14: Documents sufficient to identify all channels of trade through which Petitioner 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 the Petitioner's Mark, including, but not limited to, documents identifying the distributors, retail, or other business outlets that offer or will offer Petitioner's goods or services in connection with the Petitioner's Mark.

DOCUMENT REQUEST NO. 15: Documents sufficient to identify the geographic regions in the United States in which Petitioner has or has caused to be advertised, promoted, 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 the Petitioner's Mark.

DOCUMENT REQUEST NO. 16: Documents sufficient to show each visual, oral, and other manner in which Petitioner has presented, or licensed or permitted the presentation of, the Asserted Mark including, but not limited to, all pronunciations of and typestyles, fonts, typefaces, designs, shapes, graphics, and colors used in connection with the Petitioner's Mark.

DOCUMENT REQUEST NO. 17: Representative samples of each type of advertisement and promotional material (e.g., print, radio, television, brochures, catalogues, flyers, press releases, website pages, website banners, in-store displays, point-of-sale promotional items) that has displayed or that will display the Asserted Mark, including documents sufficient to show every manner of presentation of the Petitioner's Mark in each type of advertisement or promotional material.

DOCUMENT REQUEST NO. 18: Representative samples of all tags, labels, signs, and packaging that have displayed or that will display the Petitioner's Mark, including documents sufficient to show every manner of presentation of the Petitioner's Mark in such materials.

DOCUMENT REQUEST NO. 19: All newspaper, magazine, newsletter, trade journal, website, and other media coverage concerning Petitioner's Mark or any goods or services offered in connection with Petitioner's Mark, whether or not authored by any official member of the press.

DOCUMENT REQUEST NO. 20: 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 Petitioner under or in connection with Petitioner's Mark.

DOCUMENT REQUEST NO. 21: Documents sufficient to identify any person to or with whom Petitioner 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 the Petitioner's Mark.

DOCUMENT REQUEST NO. 22: Documents sufficient to identify each price at which Petitioner has marketed, sold, offered, distributed, or licensed, or intends to market, sell, offer, distribute, or license, any goods or services in connection with the Petitioner's Mark.

DOCUMENT REQUEST NO. 23: Documents sufficient to identify any graphic, package, product, or other designers contacted or engaged by Petitioner with respect to the preparation of any materials bearing or otherwise using the Petitioner's Mark, and all communications between Petitioner and each designer.

DOCUMENT REQUEST NO. 24: All Documents concerning Petitioner's knowledge of Respondent or Respondent's Mark, including, but not limited to, all Documents reflecting communications about or with Respondent or about Petitioner's awareness of Respondent's use Respondent's Mark.

DOCUMENT REQUEST NO. 25: All Documents concerning any trademark or domain name watch or surveillance notices received by Petitioner concerning Respondent's Mark.

DOCUMENT REQUEST NO. 26: Copies of all trademark searches, trademark clearances, internet print-outs, and other inquiries conducted by or on behalf of Petitioner concerning the availability to use or register the Petitioner's Mark, and all correspondence and other Documents relating thereto.

DOCUMENT REQUEST NO. 27: All Documents concerning any opinion letter, analysis, or other communication concerning whether Petitioner has the freedom, right, or ability to use or register Petitioner's Mark as a trademark, service mark, domain name, or other designation of origin, including the opinion Document and Documents sufficient to show the identity of the individual or entity that requested the opinion, when the opinion was requested, and who prepared the opinion.

DOCUMENT REQUEST NO. 28: All studies, surveys, investigations, research, development, analyses, and opinions concerning Petitioner's Mark, including, but not limited to, any such Documents comparing Petitioner's Mark to Respondent's Mark or concerning any similarity, actual confusion, or likelihood of confusion between Petitioner's Mark and Respondent's Mark or any mark that resembles Respondent's Mark.

DOCUMENT REQUEST NO. 29: All Documents concerning any complaint, petition, demand, objection, civil action, or administrative proceeding relating to the Petitioner's Mark.

DOCUMENT REQUEST NO. 30: Documents sufficient to show any complaint, petition, demand, objection, or civil action or administrative proceeding made or brought by or against Petitioner in which any trademark, trade dress, dilution, unfair competition, copyright, or domain name claims were asserted.

DOCUMENT REQUEST NO. 31: All Documents concerning any objection by Petitioner to any third party involving Petitioner's Mark or any mark similar to, or that Petitioner has at any time been alleged to be similar to Petitioner's Mark.

DOCUMENT REQUEST NO. 32: All Documents concerning any observations, perceptions, impressions, or inquiries as to whether the goods or services sold or offered by Respondent under or in connection with Respondent's Mark are produced by, sponsored or endorsed by, or in any manner associated or affiliated with, Petitioner or any goods or services offered under the Petitioner's Mark.

DOCUMENT REQUEST NO. 33: All Documents concerning any instances of actual or possible confusion, mistake, deception, or association of any kind between Respondent, Respondent's Mark, or Respondent's goods and Petitioner, the Petitioner's Mark or Petitioner's goods or services.

DOCUMENT REQUEST NO. 34: Documents sufficient to show the volume (in dollars and units) of annual sales of, and any service or license fees or royalties for, all goods or services sold, offered, or licensed, directly or indirectly, by or on behalf of Petitioner under or in connection with Petitioner's Mark for each of the last five years.

DOCUMENT REQUEST NO. 35: Documents sufficient to show, for each of the last five years, all costs and expenses incurred annually by Petitioner to promote, market, and advertise goods or services actually or planned or intended to be sold, offered, or licensed under or in connection with the Petitioner's Mark.

Respectfully Submitted,

Dated: January 30, 2020

Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

By: /Andrea Sager/

Andrea Sager  
Attorney for Respondent

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this paper has been served upon all parties at the following email address of record on January 30, 2020:  
redinger@youngbasile.com

/Andrea Sager/

Andrea Sager

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent

Cancellation No. 92072318

Mark: SPIRIT WITH STYLE

**RESPONDENT’S FIRST SET OF INTERROGATORIES TO PETITIONER**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rules 2.116 and 2.120 of the Trademark Rules of Practice, Shay Sipe (“Respondent”), requests that LogoFit, LLC (“Petitioner”) answer each of the following Interrogatories separately and under oath. These Interrogatories are continuing in nature. Any information which is discovered after timely service of answers should be provided to Respondent’s counsel through supplemental answers within a reasonable time after discovery thereof. Each of these Interrogatories is subject to the following instructions and definitions.

**INSTRUCTIONS**

1. In each instance where an Interrogatory is answered upon information and belief, Petitioner must set forth the basis for such information and belief.
2. In each instance where Petitioner denies knowledge or information sufficient to answer the Interrogatory, it is requested that Petitioner set forth the name and address of each person, if any, known or believed to have such knowledge.



3. In each instance where the existence of a document is disclosed, Petitioner is requested to attach a copy of such document to its answer. If the document is not in Petitioner's custody, possession or control, Petitioner is requested to state the name and address of each person known or believed by Petitioner to have such possession or control, and identify which documents are in such person's possession or control.
4. Manner of Identifying a Trademark or Service Mark Whenever an Interrogatory inquiry about a trademark, service mark, or trademark or service mark application or registration please include:
  - a. Its country or state;
  - b. The application or registration number, date of filing and current status;
  - c. Its date of first use in the country or state and a full description of the goods on which it was first used;
  - d. The trademark owner and all prior owners or claimants; and
  - e. The class and description of the goods or services for which registered and the class and description of the goods or services in connection with which it is or was used.
5. Manner of Identifying Products or Services Whenever an Interrogatory inquiries about products or services, indicate:
  - a. The catalog, stock or like number,
  - b. The name, type, and grade;
  - c. Sizes or quantity customarily sold;
  - d. Whether primarily intended for personal retail consumption, commercial retail consumption or wholesale use; and

- e. Any other designation customarily used by Petitioner or by the trade to designate such product or service.
6. Objections If Petitioner objects to any Interrogatory, state the specific grounds for the objection and provide all information responsive to the Interrogatory which is outside the scope of the objection.
7. Claim of Privilege If Petitioner alleges privilege as the basis for withholding information or material responsive to an Interrogatory, specifically identify the privilege asserted the basis therefore, identify all information or material for which Petitioner alleges privilege and identify whether any information has been withheld on the basis of such privilege.

#### **DEFINITIONS**

1. The term “Petitioner” includes LogoFit, LLC, its predecessors and successors in interest, and all of their parent, subsidiary and affiliate companies, and officers, directors, employees, agents and representatives, both present and past.
2. The term “Respondent” includes Shay Sipe its predecessors and successors in interest, and all of its parent, subsidiary, and affiliated companies and officers, directors, employees, agents and representatives, both present and past.
3. As used herein the term “person” includes any individual, corporation, company, decision, partnership agency or other organization or entity.
4. As used herein, the word “identify,” when used in reference to an oral statement, means that Petitioner shall provide the following information: State the name of the speaker; the date of the statement; the place at which the statement was made; the person or persons to whom the statement was addressed, if practicable, or otherwise a general description of the persons to whom the statement was addressed; the subject matter and substance of the

statement; and if the statement was memorialized in a writing or mechanical, electronic or other recording, state the date and present location of said writing or mechanical, electronic or other recording.

5. As used herein, the word “identify,” when used in connection with a document, means that Petitioner shall provide the following information: the name of the author; the type of document or writing; the date; the addressee, if appropriate; the subject matter; and the present location or whereabouts of the written statement. In lieu of such identification, you may attach a copy of the writing containing said written statement and refer thereto in your answer.
6. As used herein, the word “identify,” when used in connection with an individual, means that Petitioner shall provide the following information: the name of the individual; his or her present business and personal addresses; present employer (if self-employed, so state): position or title held, if applicable; and if the interrogatory applies to a previous period of time, give the above information as it existed at the time covered by the interrogatory.
7. As used herein, the word “document” shall be deemed to mean and include any written, recorded or graphic matter, however reproduced, including, but not limited to, any statement contained in books, records, memoranda, agreement, communications (including intracompany communications), reports, correspondence, telegrams, summaries or records of telephone conversations, summaries or records of personal conversations or interviews and diaries, statistical statements, graphs, notebooks, charts, forecasts, projections, drawing, checks, invoices, bills of sale, minutes or records of meetings or conferences, reports and/or summaries or investigations, opinions of counsel,

consultants, investigators or others, labels, packaging, brochures, pamphlets, advertisement, circulars, trade letters, press releases, original or preliminary notes, drafts of any document and marginal comments appearing on any document, notes, papers, and any other writings, whether originals or copies, formal or informal, of any nature, kind or description; and any other physical objects, including without limitation photographs, recording, on or in which is recorded any information or in any other writing known to you or in your possession, custody or control.

8. Use of Conjunctive Terms As used herein, “and” as well as “or” shall be construed disjunctively as necessary in order to bring within the scope of an Interrogatory all responses which otherwise might be construed as outside its scope.
9. Use of Singular, Plural and Tense of Terms As used herein, the singular shall include the plural and the present tense shall always include the past tense, and vice versa.
10. Related Marks As used herein, the term “Related Marks: refers to any trademarks or service marks used by Petitioner incorporating the term “Create Digital.”
11. "Challenged Mark" means the mark that is the subject of U.S. Trademark Registration No. 5654838 and this proceeding.
12. "Mark" means any word, name, symbol, or device (including any key word or metatag) or any combination thereof.
13. "Person" means any natural person or any legal entity, including, but not limited to, any business or governmental entity, organization, or association

## **INTERROGATORIES**

### **INTERROGATORY NO. 1**

Identify the nature and scope of Petitioner's business, its place or places of business, its form of business organization and its date of incorporation.

**ANSWER:**

### **INTERROGATORY NO. 2**

Identify any and all predecessors, or successors of Petitioner, and all entities with any interest in Petitioner's business involving Petitioner's Mark and/or any Related Marks.

**ANSWER**

### **INTERROGATORY NO. 3**

Identify all of the goods and services in connection with which Respondent has used or is using any mark that you contend infringes or dilutes the Petitioner's Mark in any way.

**ANSWER**

### **INTERROGATORY NO. 4**

Describe each and every instance of which Petitioner is aware in which any person has been in any way confused, mistaken, or deceived as to the origin or sponsorship of any goods or services sold or offered for sale under or in connection with Respondent's Mark.

**ANSWER**

### **INTERROGATORY NO. 5**

Identify all surveys, studies, investigations, or research conducted by or on behalf of Petitioner in connection with Respondent's Mark or any other mark that incorporates Respondent's Mark in whole or in part, by date, title, the entity conducting the survey, and the person requesting the survey.

**ANSWER**

**INTERROGATORY NO. 6**

Describe the facts and circumstances concerning your conception, creation, selection, and adoption of the Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 7**

Identify all goods and services that Petitioner has offered for sale, sold, or provided under or in connection with the Petitioner's Marks in the United States.

**ANSWER**

**INTERROGATORY NO. 8**

For each product or service identified in answer to Interrogatory 7, identify:

- (a) the earliest date when Petitioner made such sale and the time period during which such sale continued;
- (b) the locality and state in which such product was sold;
- (c) all documents showing or describing such product;
- (d) all documents reflecting each such sale including the price at which such

product was or is offered for sale; and

(e) all persons with knowledge of such sale;

(f) the manufacturer of such products;

(g) the total number of such products manufactured; and

(h) the total number of such products currently in inventory.

**ANSWER**

**INTERROGATORY NO. 9**

Describe the nature of any print or online advertisements, promotional materials, and marketing materials (for example, newspaper advertisements, magazine advertisements, internet websites, television commercials, brochures), including by identifying the specific media (for example, The New York Times, Time magazine, Google.com, CBS Network television) in which Petitioner is using, has used, or plans to use Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 10**

Describe all market research conducted by or on behalf of Petitioner concerning Petitioner's Mark or any goods or services marketed or proposed to be marketed under Petitioner's Mark, including the results of such research.

**ANSWER**

**INTERROGATORY NO. 11**

Describe all channels of trade in the United States through which Petitioner has offered for sale, sold, or intends to offer for sale or sell goods or services under or in connection with the Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 12**

Describe all classes and/or types of customers that comprise the intended market for goods or services offered for sale, sold, or intended to be offered for sale or sold under or in connection with Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 13**

Identify the geographic regions in the United States in which Petitioner has or has caused to be advertised, promoted, marketed, displayed, distributed, offered for sale, or sold, or plans or intends to advertise, promote, market, display, distribute, offer for sale, or sell, either directly or through others, any goods or services under or in connection with Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 14**

Identify by name and location all trade shows in the United States where goods or services under Petitioner's Marks have been displayed, promoted, or sold.

**ANSWER**



**INTERROGATORY NO. 15**

Identify and describe all expenditures incurred by Petitioner in connection with the development, production, distribution, promotion, advertisement, and sale of any goods or services under Petitioner's Mark, including by identifying the nature and amount of each expenditure.

**ANSWER**

**INTERROGATORY NO. 16**

Identify each trademark search, investigation, or any other inquiry conducted by or for Petitioner concerning the availability to use or register Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 17**

Identify all agreements concerning Petitioner's Mark by date, parties to the agreement, and the subject matter of the agreement.

**ANSWER**

**INTERROGATORY NO. 18**

Identify all persons, including but not limited to Respondent and third parties, with whom Petitioner has communicated regarding the protection or enforcement of trademark rights associated with Petitioner's Mark, and, for each such person, identify the date(s) of the communication(s) and the nature and substance of each such communication.

**ANSWER**

**INTERROGATORY NO. 19**

Identify and describe in detail all trademark or domain name watch or surveillance notices related to Petitioner's Mark.

**ANSWER**

**INTERROGATORY NO. 20**

Describe in detail all facts and circumstances that show that Respondent willfully, knowingly, or intentionally adopted or used any Mark to cause confusion or mistake, or to deceive.

**ANSWER**

**INTERROGATORY NO. 21**

Identify and describe in detail all administrative proceedings and litigations related to Petitioner's Mark other than this proceeding.

**ANSWER**

**INTERROGATORY NO. 22**

Identify and describe in detail when Petitioner became aware of Respondent's usage of the Mark.

**ANSWER**

**INTERROGATORY NO. 23**

Identify and describe in detail additional similar third-party marks Petitioner is aware of.

**ANSWER**

**INTERROGATORY NO. 24**

Identify and describe in detail any communication Petitioner has had with similar third-party marks.

**ANSWER**

Respectfully Submitted,

Dated: January 30, 2020

Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

By: /Andrea Sager/  
Andrea Sager  
Attorney for Respondent

**CERTIFICATE OF  
SERVICE**

The undersigned hereby certifies that a copy of this paper has been served upon all parties at the following email address of record on January 30, 2020:  
redinger@youngbasile.com

/Andrea Sager/

Andrea Sager

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

LOGOFIT, LLC

Petitioner,

v.

SHAY SIPE

Respondent

Cancellation No. 92072318

Mark: SPIRIT WITH STYLE

**RESPONDENT'S FIRST SET OF REQUESTS FOR ADMISSION TO PETITIONER**

Respondent, Shay Sipe ("Respondent"), by counsel, hereby requests that Petitioner, LogoFit, LLC ("Petitioner") admit or deny the following statements of law and fact. If objection is made, please state the reason for the objection, and set forth in detail the reasons why Registrant cannot truthfully admit or deny the matter. Respondent hereby incorporates by reference as if fully stated herein the definitions from Respondent's First Set of Interrogatories to Petitioner

**REQUESTS FOR ADMISSION**

1. Admit that there are differences in appearance between the Respondent's Mark and Petitioner's Mark.
2. Admit that there are differences in meaning between the Respondent's Mark and the Petitioner's Mark.
3. Admit that there are differences in connotation between the Respondent's Mark and the Petitioner's Mark.

4. Admit that there are differences in commercial impression between the Respondent's Mark and Petitioner's Mark
5. Admit that the goods offered under Petitioner's Mark includes the Mark "LogoFit" in addition to Petitioner's Mark.
6. Admit that Petitioner's Mark is used as a slogan.
7. Admit Petitioner uses the hashtag "#LogoFitSpiritWithStyle" on social media.
8. Admit that you have not sold or offered bottoms as clothing and tops as clothing under Petitioner's Mark.
9. Admit that you have no present plan to offer bottoms as clothing and tops as clothing under Petitioner's Mark.
10. Admit that your goods are not competitive with Respondent's goods.
11. Admit that your goods and Respondent's goods are not sold together.
12. Admit that your primary channel of trade is college book stores or collegiate apparel outlines.
13. Admit that Petitioner's Mark is used in connection with collegiate apparel with at least 90% of Petitioner's sales.
14. Admit that there are differences between your target purchasers and Respondent's target purchasers.
15. Admit that in offering services under Petitioner's Mark, Petitioner does not target high school athletics.
16. Admit that consumers do not purchase your goods on impulse.
17. Admit that your consumers are sophisticated in making purchases.
18. Admit you do not advertise your Mark without the Mark "LogoFit."

19. Admit that Respondent's Mark and your Mark have coexisted in the marketplace for at least 5 years.
20. Admit that you have no documents showing actual confusion between Respondent's Mark and your Mark.
21. Admit that you are aware of no facts or evidence showing actual confusion between Respondent's Mark and your Mark.
22. Admit that at least 90% of Petitioner's sales are wholesale orders.
23. Admit that at least 90% of Petitioner's sales are through collegiate bookstores across the country.

Respectfully Submitted,

Dated: January 30, 2020

Andrea Sager Law PLLC  
713 Llano St.  
Pasadena, Texas 77504  
(859)638-1921

By: /Andrea Sager/

Andrea Sager  
Attorney for Respondent

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this paper has been served upon all parties at the following email address of record on January 30, 2020:  
redinger@youngbasile.com

/Andrea Sager/

Andrea Sager



# Exhibit E



ANDREA SAGER  
LEGAL COUNSEL

July 23, 2020

Patrick Lewis  
Patrick@andreasager.com  
913-593-4533

***Via Email: cook@youngbasile.com***

Cass Cook  
Senior Attorney  
Young Basile Hanlon & MacFarlane P.C.  
Re: Call Notes

Dear Mr. Cook,

Thank you for taking the time to speak with me today. The purpose of this letter is to provide a recap of our phone conversation that took place on July 23, 2020 at 3:00 PM CT.

-I started the phone call by letting you know that our client is still very open to settling this case. I expressed that we would be happy to draft a proposed settlement agreement or review a proposed settlement agreement if you would like to draft one. You said you would keep that in mind.

-We discussed the interrogatories. I made our position known that the interrogatories sent were excessive and for that reason we were justified in not responding under TBMP 405.03(d). I pointed out specific examples of interrogatories that asked more than one question and had subparts. Specifically, questions 3 and 15. I made it known that if you amended the interrogatories to the proper count we could respond. You disagreed with me on this point and said that the interrogatories were not excessive and that I needed to walk you through every interrogatory and show you how they're excessive.

-We discussed the requests for production. I made our position known that we are justified in not responding to the requests for production because the interrogatories were excessive under TBMP 405.03(e). Again, I reiterated that if you amend the interrogatories we would respond to the requests for production. You disagreed with me on this point and that we still need to respond to the requests for production even though we thought the interrogatories were excessive.

-We discussed the requests for admissions. I made our position known that we will maintain our objections to vague terms like "sports teams" and "expensive" and that I would be doing my client a disservice by responding to vague requests for admission. You disagreed with me and said that the requests for admissions were not vague.



ANDREA SAGER

LEGAL COUNSEL

-Last, I again brought up that we are still very much open to settling this case.

Please let me know if there are any discrepancies. However, this is my recollection of our phone call.

Sincerely,

A handwritten signature in black ink, appearing to read 'Pm Lm', which is a stylized representation of the name Andrea Sager.