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

Proceeding no.	92074468
Party	Plaintiff NHDNC LLC
Correspondence address	HOWARD EICHENBLATT LAW OFFICES OF HOWARD EICHENBLATT 7420 RIDGE BLVD. 4P BROOKLYN, NY 11209 UNITED STATES Primary email: h@eichenblattlaw.com 732-379-8128
Submission	Motion to Compel Discovery or Disclosure
Filer's name	Howard Eichenblatt
Filer's email	h@eichenblattlaw.com
Signature	/Howard Eichenblatt/
Date	06/27/2022
Attachments	Petitioners Motion to Compel and Declaration.pdf(1534224 bytes)

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

In re Registration No. 1,027,417
For the mark: VELCRO
Registration Date: December 16, 1975

NHDNC LLC,	:	
	:	Cancellation No. 92074468
Petitioner,	:	
v.	:	
Velcro IP Holdings LLC and Velcro BVBA,	:	
	:	
Respondents.	:	

**PETITIONER’S MOTION TO COMPEL AND HAVE ITS REQUESTS FOR
ADMISSION DEEMED ADMITTED**

I. Introduction

Petitioner hereby submits this motion to compel and have its requests for admission deemed admitted. Respondents refused to provide substantive responses to Petitioner’s interrogatories and also refused to admit or deny Petitioner’s requests for admission for approximately half a year on the basis that it had a motion pending before the PTAB. Then, when the motion was resolved, it failed to either amend or

supplement either its responses to Petitioner's interrogatories or to amend its non-substantive response to Petitioner's requests for admission for over a month. Following that, Petitioner began to raise this issue via email and then in a meet and confer between the parties, during which Respondents said it would provide responses but that it could not commit to a time frame for doing so. That meet and confer occurred over a month ago, and still Respondents have failed to either supplement its responses or indicate when it would do so. Further, Respondents have now filed a baseless motion to compel against Petitioner and have made it clear that they will not be participating in a fair and reciprocal discovery process in this proceeding. For these reasons, Petitioner asks that the Board Compel Respondents to Respond to Petitioner's Interrogatories substantively without objections, all of which should be deemed waived, and also to Order Petitioner's Requests for Admission Deemed Admitted in view of Respondents' failure to admit or deny the Requests for Admission after nearly a year since they were originally served on Respondents.

II. Statement of Facts

Petitioner served its Interrogatories and Requests for Admission on September 15, 2021 ("Petitioner's Discovery Requests"). *See* Declaration Of Serge Krimnus in Support Of Petitioner's Motion To Compel And Have Its Requests For Admission Deemed Admitted ("Krimnus Decl.") ¶¶ 3-4. Respondents responded to Petitioner's Discovery Requests on October 14, 2021 indicating that they would respond substantively to the discovery after their pending motion was resolved, providing no

case law in support of their position that they did not have a duty to respond. *See* Krimnus Decl. ¶¶ 5-6. As explained to Respondents via email and through meet and confers, Respondents' discovery obligations were not on hold during the pendency of the prior motion to disqualify, and their refusal to provide substantive responses to Petitioner's Discovery Requests was unexcused. Respondents' assumption that its motion would be successful and that counsel would be disqualified was not a lawful basis for Respondent to have withheld substantive responses to Petitioner's discovery requests. Moreover, since Serge Krimnus and Andrew Bochner were permitted to continue representing NHDNC in this matter, Respondents' claim that it was correct in withholding discovery responses from Petitioner was nonsense. Similarly, all prior counsel of record in this matter were lawfully admitted attorneys, bound by the respective oaths they had taken, and so Respondents' position that it rightfully withheld discovery responses to Petitioner's Discovery Requests for approximately 8 months was baseless. Moreover, in any case, the motion to disqualify was decided over three months ago, March 21, 2022, 30 TTABVUE.

III. Argument

A. Respondents Should be Compelled to Substantively Respond to Petitioner's Interrogatories and All Objections Thereto Should be Waived

Federal Rule of Civil Procedure 33(b)(3) (as incorporated into Trademark Trial and Appeal Board practice by 37 C.F.R. § 2.116) requires a party responding to interrogatories to answer "[e]ach interrogatory . . . separately and fully in writing under oath." "A party seeking discovery may move for an order compelling an answer,

designation, production, or inspection” if “a party fails to produce documents . . . as requested under Rule 34.” Fed. R. Civ. P. 37(a)(3)(B). “It is well established that a failure to object to discovery requests within the time required constitutes a waiver of any objection.” *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1992); *see also Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir. 1981). (“Generally, in the absence of an extension of time or good cause, the failure to object to interrogatories within the time fixed by Rule 33 . . . constitutes a waiver of any objection. This is true even of an objection that the information sought is privileged.”); *see also Rosas v. Sarban and Farms, LLC*, No. C18-0112-JCC, 2019 U.S. Dist. LEXIS 161331, at *3-4 (W.D. Wash. Sep. 20, 2019). Here, Respondents provided the following identical response to every Interrogatory:

This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s interrogatories. Respondent will respond to Petitioner’s interrogatories within a reasonable time after the Trademark Trial and Appeal Board (“Board”) resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order

Despite the claim that they would supplement their responses, Respondents have not supplemented anything, and they have continued to withhold substantive responses for months now since the prior motion was decided despite numerous emails and a meet and confer directed toward this issue. *See Krimnus Decl.* ¶¶ 7-10; *see also* 30

TTABVUE (disqualification motion decided March 21, 2022). For this reason, Petitioner respectfully requests that the Board order Respondents to substantively respond to Petitioner's Interrogatories, and to order that any potential objections thereto be waived.

B. Petitioner's Requests For Admission Should Be Deemed Admitted Given Respondents' Failure to Admit or Deny those Requests After Almost A Year Since They Were Served

Fed. R. Civ. P. 36(a)(3) states that a "[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection." With respect to responses that were deficient such as those here, Courts have interpreted Rule 36 and held that "[w]here a party has responded to an RFA, [t]he propounding party may move for a judicial determination of the sufficiency of an answer or objection . . . [and if] the court finds that the answer does not comply with Rule 36, the court may order either that the matter is admitted or that an amended answer be served." *Derrick v. Hudson Hall LLC*, 2021 U.S. Dist. LEXIS 22367, at *5 (S.D.N.Y. Feb. 5, 2021). Here, Respondents did not substantively respond to any of Petitioner's Requests for Admission. Every single response to each Request for Admission stated:

This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Trademark Trial and Appeal Board ("Board") resolves the pending petition to disqualify and issues an order

lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

Thus, by its own admission Respondents did not substantively respond. Further, despite the claim that they would supplement their responses, Respondents did not supplement anything following the decision to the motion for disqualification, 30 TTABVUE, and they continued to withhold substantive responses for months after the prior motion was decided despite numerous emails and a meet and confer directed toward this issue. *See* Krimnus Decl. ¶¶ 7-10. Courts have consistently enforced this Rule in situations like this where a party failed to admit or deny any of the requests in its responses to the requests. *Derrick v. Hudson Hall LLC*, 2021 U.S. Dist. LEXIS 22367, at *5 (S.D.N.Y. Feb. 5, 2021). For this reason, Petitioner asks the Court to deem Petitioner's Requests for Admission admitted by Respondents.

CONCLUSION

For the foregoing reasons, Petitioner NHDNC LLC respectfully requests that the Board grant its motion to compel and Order Respondents to Respond to Petitioner's Interrogatories substantively, Order that Respondents' Objections to Petitioner's Interrogatories are waived, and Order Petitioner's Requests for Admission be Deemed Admitted.

Dated: June 27, 2022
New York, New York

Respectfully submitted,
/Howard Eichenblatt/
Howard Eichenblatt, Esq.
Andrew D. Bochner, Esq.
Serge Krimnus, Esq.
Attorneys for Petitioner

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

In re Registration No. 1,027,417
For the mark: VELCRO
Registration Date: December 16, 1975

NHDNC LLC,	:	
	:	Cancellation No. 92074468
Petitioner,	:	
v.	:	
Velcro IP Holdings LLC and Velcro BVBA,	:	
	:	
Respondents.	:	

**DECLARATION OF SERGE KRIMNUS IN SUPPORT OF PETITIONER’S MOTION TO COMPEL AND HAVE ITS
REQUESTS FOR ADMISSION DEEMED ADMITTED**

I, Serge Krimnus, an attorney barred in the state of New York, affirm under penalty of perjury under the laws of the United States as follows:

1. I am a member of and serve as *pro se* counsel for Petitioner NHDNC LLC in this proceeding. I have personal knowledge of the facts stated in this Declaration.
2. I am submitting this Declaration in support of Petitioner’s Motion to Compel and Have Its Requests For Admission Deemed Admitted (the “Motion to Compel”).
3. On September 15, 2021, counsel served Petitioner’s First Set of Requests For

Admission To Respondent', attached hereto as Exhibit A.

4. On September 15, 2021, counsel served Petitioner's First Set of Interrogatories, attached hereto as Exhibit B.
5. On October 14, 2021, Respondents' counsel served Respondents' Responses To Petitioner's First Set Of Requests For Admission, attached hereto as Exhibit C.
6. On October 14, 2021, Respondents' counsel served Respondents' Responses To Petitioner's First Set Of Interrogatories, attached hereto as Exhibit D.
7. On April 25, 2022, Petitioner sent Respondents' counsel the email attached hereto as Exhibit E, requesting supplementation of its discovery responses.
8. On May 5, 2022, Petitioner sent Respondents' counsel the email attached hereto as Exhibit F, requesting supplementation of Respondents' discovery responses and seeking to meet and confer.
9. On May 9, 2022, Petitioner sent Respondents' counsel the email attached hereto as Exhibit G, seeking a meet and confer conference re supplementation of its discovery responses.
10. On May 11, 2022, counsel for both parties met and conferred re Respondents' supplementing their discovery responses to Petitioner's discovery requests, but Respondents' counsel refused to provide a date for when supplementation of its discovery responses would occur.
11. In light of the May 11, 2022 meeting, I certify that I have, in good faith, conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.
12. As of the date of this declaration, June 27, 2022, Respondents have still neither

supplemented its responses nor indicated when it would do so.

Further Declarant says not.

Date: June 27, 2022
New York, NY

Respectfully Submitted,

/Serge Krimnus/
Serge Krimnus, Esq.

EXHIBIT A

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

NHDNC LLC,)	
Petitioner,)	Cancellation No. 92074468
)	
v.)	
)	
VELCRO IP HOLDINGS LLC and)	
VELCRO BVBA,)	
)	
Respondents.)	

PETITIONER’S FIRST SET OF REQUESTS FOR ADMISSION TO RESPONDENT

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Petitioner NHDNC LLC (“Petitioner”) hereby requests that Velcro IP Holdings LLC and Velcro BVBA (collectively, “Respondent”), by its undersigned counsel, admit to the truth of the following Requests, separately, fully, in writing, and under oath, and serve its admissions upon the undersigned attorneys of Bochner IP, PLLC, within thirty (30) days of service of these requests.

DEFINITIONS

1. “Petitioner” means NHDNC LLC, the Petitioner in the above-captioned proceeding.

2. “Respondent”, “you,” or “your” means Respondent Velcro IP Holdings LLC and Velcro BVBA, their subsidiaries, divisions, predecessor, and successor companies, affiliates, parents, any partnership or joint venture to which they may be a party, and/or each of the

foregoing entities' employees, agents, officers, directors, representatives, consultants, accountants, and attorneys, including any person who served in any such capacity at any time during the relevant time period specified herein.

3. "Petitioner's Marks" means the marks identified in Paragraph 2 of the Second Amended / Supplemental Petition For Cancellation in this proceeding.

4. "Challenged Mark" means the mark that is the subject of U.S. Trademark Registration No. 1,027,417 and this proceeding.

5. "Velcro Marks" means any marks including the word "velcro" whether in standard character or design form, owned or used by Respondent. Velcro Marks includes the Challenged Mark.

6. "Document" is synonymous in meaning and equal in scope to its usage in FRCP 34(a)(1)(A). The term "document" refers to any document now or at any time in Respondent's possession, custody, or control. A person is deemed in control of a document if the person has any ownership, possession, or custody of the document, or the right to secure the document or a copy thereof from any person or public or private entity having physical possession thereof.

7. "Communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

8. "Concerning" means consisting of, referring to, relating to, reflecting, or being in any way logically or factually connected with the matter discussed.

9. “Date” means the exact day, month, and year if ascertainable, or, if not, the best available approximation (including relationship to other events).

10. “Mark” means any word, name, symbol, or device (including any key word or metatag) or any combination thereof.

11. A reference to a “person” includes an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity and includes all of that person's principals, employees, agents, attorneys, consultants, and other representatives.

12. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the request all responses that might otherwise fall outside the scope of this request.

13. The terms “all,” “any,” or “each” encompass any and all of the matter discussed.

14. The use of singular form includes plural, and vice versa.

15. The use of present tense includes past tense, and vice versa.

16. The masculine form shall also be construed to include the feminine and vice versa.

17. The “Velcro Re-education Program” refers to efforts undertaken by Respondent and its attorneys to reeducate, bully, coerce, intimidate or otherwise change the way that the general public speaks, such that the public would cease its plain and regular usage of the word “Velcro” to refer to the type of fasteners for which the term is ordinarily used, and instead use

the term “Hook and Loop Fasteners” to refer to such items. The Velcro Re-education Program includes the creation and dissemination of the videos: (1) “Don't Say Velcro,” published to YouTube on or about Sept. 25, 2017, available at https://www.youtube.com/watch?v=rRi8LptvFZY&ab_channel=VELCRO%C2%AEBrand ; (2) “Thank You For Your Feedback - Don't Say Velcro,” published to YouTube on or about June 4, 2018, available at https://www.youtube.com/watch?v=ZLWMQLMiTPk&ab_channel=VELCRO%C2%AEBrand ; and (3) “Behind The Scenes: Don't Say Velcro,” published to YouTube on or about Sept. 25, 2017, available at https://www.youtube.com/watch?v=oP-fZdFfOGE&ab_channel=VELCRO%C2%AEBrand (collectively, the “Re-Education Videos”). The “Re-Education Videos” refers to the above videos as well as any similar or related versions that may be at other URLs and/or social networking platforms, including any clips of the above videos or related versions posted anywhere on the internet, e.g. twitter.

18. The “Velcro Business Harassment Program” refers to efforts undertaken by Respondent and its attorneys to harass, bully, coerce, intimidate, threaten, communicate, encourage, and/or request businesses into paying them a license fee for their use of the term “Velcro” despite it being a generic term no longer subject to protection under applicable trademark law.

INSTRUCTIONS

1. Unless you properly object to a request, you must admit, specifically deny, or state in detail why you cannot truthfully admit or deny each of the following requests based on knowledge and information in your possession, custody, or control, or in the possession, custody,

or control of your representatives, agents, or attorneys. If you do not respond to each of these requests within thirty (30) days, the requests will be deemed admitted, as described in Federal Rule of Civil Procedure 36 and TBMP § 407.03.

2. You may not give lack of information or knowledge as a reason for failure to admit or deny a requested admission unless you in good faith state that you have made a reasonable inquiry and that the information known or readily obtainable by you is insufficient to enable you to admit or deny the requested admission.

3. If you object to any request, in whole or in part, on the grounds of privilege, provide all information required by Federal Rule of Civil Procedure 26(b)(5) and TBMP § 405.04(b).

4. Unless otherwise stated herein, all requests apply to activities in or in connection with the United States.

5. These requests are continuing in nature. If you receive or otherwise become aware of information responsive to any request after you have served your responses to these requests, you must promptly supplement your answers to these requests to provide such information, as required by Federal Rule of Civil Procedure 26(e) and TBMP § 408.03.

6. For the convenience of the Board and the parties, each request should be quoted in full immediately preceding your response.

REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that you launched the Velcro Re-education Program because you believed that the term “Velcro” either was or is generic.

REQUEST NO. 2: Admit that the Velcro Re-education Program was part of an effort to fight genericide of the Velcro Marks.

REQUEST NO. 3: Admit that the Re-education Videos were created because Respondent was concerned that the term “Velcro” either was generic or was becoming generic.

REQUEST NO. 4: Admit that you or your counsel analyzed the issue of whether the term “Velcro” was or is generic.

REQUEST NO. 5: Admit that you created one or more documents reflecting a legal analysis of the issue of whether the term “Velcro” was or is becoming generic.

REQUEST NO. 6: Admit that there are multiple documents in your possession reflecting opinions on the issue of whether the term “Velcro” is generic.

REQUEST NO. 7: Admit that you created a plan to avoid the general public from using the term “Velcro” generically.

REQUEST NO. 8: Admit that you have documents related to your plan to avoid the general public from using the term “Velcro” generically.

REQUEST NO. 9: Admit that you have performed or commissioned studies to determine whether and to what extent the term “Velcro” is used generically by consumers.

REQUEST NO. 10: Admit that you have no evidence to support a claim that the general public uses the phrase “hook and loop fastener” to refer to the genus of goods protected by the Challenged Mark.

REQUEST NO. 11: Admit that the general public at least prefers to use the term “Velcro” to refer to the genus of goods protected by the Challenged Mark, rather than the term “hook and loop fastener.”

REQUEST NO. 12: Admit that the average consumer does not know that the term “Velcro” is an indication of brand rather than a designation primarily used to refer to the genus of goods protected by the Challenged Mark.

REQUEST NO. 13: Admit that a codeword for “generic” has been used by Respondent at present or in the past.

REQUEST NO. 14: Admit that a substantial portion of the public uses the term “Velcro” to refer to separable fasteners or hook and loop-type fasteners.

REQUEST NO. 15: Admit that a majority of the public uses the term “Velcro” to refer to separable fasteners or hook and loop-type fasteners.

REQUEST NO. 16: Admit that a substantial portion of sellers of separable fasteners or hook and loop-type fasteners uses the term “Velcro” to refer to separable fasteners or hook and loop-type fasteners.

REQUEST NO. 17: Admit that a majority of sellers of separable fasteners or hook and loop-type fasteners uses the term “Velcro” to refer to separable fasteners or hook and loop-type fasteners.

Dated: September 15, 2021
New York, New York

Respectfully submitted,
By: /s/ Paul L. Fraulo
Andrew D. Bochner, Esq.
Serge Krimnus, Esq.
Paul L. Fraulo, Esq.
Bochner IP, PLLC
295 Madison Avenue, 12th Floor
New York, NY 10017
T: 646-971-0685
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 15, 2021, I caused a true and correct copy of the foregoing **PETITIONER'S FIRST SET OF REQUESTS FOR ADMISSION TO RESPONDENT** to be served by electronic mail only upon:

Jarvis, Joshua (JJarvis@foleyhoag.com);

Kinsley, Nicole (nkinsley@foleyhoag.com);

ttab@foleyhoag.com (ttab@foleyhoag.com);

psullivan@foleyhoag.com (psullivan@foleyhoag.com);

Belt, Erik Paul (ebelt@McCarter.com);

Ried, Alexander (aried@mccarter.com);

Shannon, Anne (ashannon@mccarter.com);

Shyavitz, Lori J. (LShyavitz@McCarter.com)

/s/ Paul L. Fraulo
Paul L. Fraulo, Esq.

EXHIBIT B

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

NHDNC LLC,)	
Petitioner,)	Cancellation No. 92074468
)	
v.)	
)	
VELCRO IP HOLDINGS LLC and)	
VELCRO BVBA,)	
)	
Respondents.)	

PETITIONER’S FIRST SET OF INTERROGATORIES TO RESPONDENT

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, Petitioner NHDNC LLC (“Petitioner”) hereby requests that Velcro IP Holdings LLC and Velcro BVBA (collectively, “Respondent”), by its undersigned counsel, serve upon the undersigned attorneys at Bochner IP, PLLC, answers, under oath, to each of the following interrogatories within thirty (30) days of service of these interrogatories.

DEFINITIONS

1. “Petitioner” means NHDNC LLC, the Petitioner in the above-captioned proceeding.

2. “Respondent”, “you,” or “your” means Respondent Velcro IP Holdings LLC and Velcro BVBA, their subsidiaries, divisions, predecessor, and successor companies, affiliates, parents, any partnership or joint venture to which they may be a party, and/or each of the foregoing entities’ employees, agents, officers, directors, representatives, consultants,

accountants, and attorneys, including any person who served in any such capacity at any time during the relevant time period specified herein.

3. “Petitioner's Marks” means the marks identified in Paragraph 2 of the Second Amended / Supplemental Petition For Cancellation in this proceeding.

4. “Challenged Mark” means the mark that is the subject of U.S. Trademark Registration No. 1,027,417 and this proceeding.

5. “Velcro Marks” means any marks including the word “velcro” whether in standard character or design form, owned or used by Respondent. Velcro Marks includes the Challenged Mark.

6. “Document” is synonymous in meaning and equal in scope to its usage in FRCP 34(a)(1)(A). The term “document” refers to any document now or at any time in Respondent’s possession, custody, or control. A person is deemed in control of a document if the person has any ownership, possession, or custody of the document, or the right to secure the document or a copy thereof from any person or public or private entity having physical possession thereof.

7. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

8. “Concerning” means consisting of, referring to, relating to, reflecting, or being in any way logically or factually connected with the matter discussed.

9. “Date” means the exact day, month, and year if ascertainable, or, if not, the best available approximation (including relationship to other events).

10. “Describe” means set forth fully and unambiguously every fact relevant to the subject of the interrogatory, of which you (including your agents and representatives) have knowledge or information.

11. “Identify” with respect to a person who is an individual means to state that person's full name, present or last known address, and current or last known place of employment.

12. “Identify” with respect to a person that is not an individual means to state its: full name, legal form, date of organization, state of incorporation or organization or other business or license authority, present or last known address and telephone number, and the identity of its chief executive officer, partners, or persons in equivalent positions.

13. “Identify” with respect to a document means to give, to the extent known, the (a) type of document; (b) general subject matter; (c) date of the document; and (d) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with identifying information sufficient to satisfy Rule 33 of the Federal Rules of Civil Procedure.

14. “Identify” with respect to communications means to give, to the extent known, (a) a description of the substance of the communication; (b) the form of the communication (e.g., telephone, facsimile, email, etc.); (c) the identity of each person that was a party to and/or present at the time of the communication, as well as the full name, present or last known address, and the current or last known place of employment of each person; (d) the identity of the person whom you contend initiated the communication; and (e) the time, date, and place of the communication.

15. “Mark” means any word, name, symbol, or device (including any key word or metatag) or any combination thereof.

16. A reference to a “person” includes an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity and includes all of that person's principals, employees, agents, attorneys, consultants, and other representatives.

17. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of the request all responses that might otherwise fall outside the scope of this request.

18. The terms “all,” “any,” or “each” encompass any and all of the matter discussed.

19. The use of singular form includes plural, and vice versa.

20. The use of present tense includes past tense, and vice versa.

21. The masculine form shall also be construed to include the feminine and vice versa.

22. The “Velcro Re-education Program” refers to efforts undertaken by Respondent and its attorneys to reeducate, bully, coerce, intimidate or otherwise change the way that the general public speaks, such that the public would cease its plain and regular usage of the word “Velcro” to refer to the type of fasteners for which the term is ordinarily used, and instead use the term “Hook and Loop Fasteners” to refer to such items. The Velcro Re-education Program includes the creation and dissemination of the videos: (1) “Don't Say Velcro,” published to

YouTube on or about Sept. 25, 2017, available at

https://www.youtube.com/watch?v=rRi8LptvFZY&ab_channel=VELCRO%C2%AEBrand ;

(2)“Thank You For Your Feedback - Don't Say Velcro,” published to YouTube on or about June 4, 2018, available at

https://www.youtube.com/watch?v=ZLWMQLMiTPk&ab_channel=VELCRO%C2%AEBrand ;

and (3) “Behind The Scenes: Don't Say Velcro,” published to YouTube on or about Sept. 25, 2017, available at [https://www.youtube.com/watch?v=oP-](https://www.youtube.com/watch?v=oP-fZdFfOGE&ab_channel=VELCRO%C2%AEBrand)

[fZdFfOGE&ab_channel=VELCRO%C2%AEBrand](https://www.youtube.com/watch?v=oP-fZdFfOGE&ab_channel=VELCRO%C2%AEBrand) (collectively, the “Re-Education Videos”).

The “Re-Education Videos” refers to the above videos as well as any similar or related versions that may be at other URLs and/or social networking platforms, including any clips of the above videos or related versions posted anywhere on the internet, e.g. twitter.

23. The “Velcro Business Harassment Program” refers to efforts undertaken by Respondent and its attorneys to harass, bully, coerce, intimidate, threaten, communicate, encourage, and/or request businesses into paying them a license fee for their use of the term “Velcro” despite it being a generic term no longer subject to protection under applicable trademark law.

INSTRUCTIONS

1. Answers to these interrogatories shall be served upon the undersigned attorneys at Bochner IP, PLLC, via email, within thirty (30) days of service of these interrogatories.

2. Each interrogatory is to be answered fully based on information in your possession, custody, or control, or in the possession, custody, or control of your representatives, agents, or attorneys.

3. If you object to any interrogatory, in whole or in part, on the grounds of privilege, provide all information required by Federal Rule of Civil Procedure 26(b)(5) and TBMP § 405.04(b).

4. Unless otherwise stated herein, all Interrogatories are for the period commencing June 7, 2010, up to and including the future date of resolution of this action.

5. Unless otherwise stated herein, all Interrogatories apply to activities in or in connection with the United States.

6. If you respond to an interrogatory by reference to documents pursuant to Federal Rule of Civil Procedure 33(d), identify the documents with specificity, including by identifying the applicable Bates Number range to the extent the documents are produced in response to document requests in this proceeding.

7. For the convenience of the Board and the parties, each interrogatory should be quoted in full immediately preceding the response.

8. These interrogatories are continuing in nature. If you receive or otherwise become aware of information responsive to any interrogatory after you have served your answers to these interrogatories, you must promptly supplement your answers to these interrogatories to provide such information, as required by Federal Rule of Civil Procedure 26(e) and TBMP § 408.03.

INTERROGATORIES

INTERROGATORY NO. 1: Identify by jurisdiction and registration or serial number any and all federal and state trademark registration(s) and application(s), whether current (including

pending) or dead, for the Velcro Marks.

INTERROGATORY NO. 2: For each good or service that Respondent has offered, sold, or provided under or in connection with the Challenged Mark, state the suggested or expected retail price of the good or service.

INTERROGATORY NO. 3: Describe the nature of any 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 Respondent is using, has used, or plans to use the Velcro Marks.

INTERROGATORY NO. 4: Identify all persons who participated in or were or are responsible for the marketing or advertising of any goods or services offered for sale, sold, or intended to be offered for sale or sold by or for Respondent or its licensees under or in connection with the Velcro Marks.

INTERROGATORY NO. 5: Identify all website(s) displaying the Velcro Marks that are owned, operated, or controlled by Respondent, and all persons who participated in or were or are responsible for the creation and development of each website.

INTERROGATORY NO. 6: Describe all market research conducted by or on behalf of Respondent concerning the Velcro Marks or any goods or services marketed or proposed to be marketed under the Velcro Marks, including the results of such research.

INTERROGATORY NO. 7: Identify and describe all expenditures incurred by you in connection with the development, production, distribution, promotion, advertisement, and sale of any goods or services under the Velcro Marks, including by identifying the nature and amount of

each expenditure.

INTERROGATORY NO. 8: Identify all surveys conducted by or on behalf of Respondent concerning the Velcro Marks or any other mark that incorporates the Challenged Mark in whole or in part, by date, title, the entity conducting the survey, and the person requesting the survey.

INTERROGATORY NO. 9: Identify all agreements concerning the Velcro Marks by date, parties to the agreement, and the subject matter of the agreement.

INTERROGATORY NO. 10: Describe in detail any communications between Respondent and any third party concerning Petitioner or Petitioner's Marks, and any actions taken by Respondent as a result of such communications.

INTERROGATORY NO. 11: Describe the circumstances and reasoning behind Respondent's recent decision to assign the Challenged Mark (see 13 TTABVUE).

INTERROGATORY NO. 12: Describe all facts and circumstances that support Respondent's statement in paragraph 28 that "Velcro Companies have educated the publishers of dictionaries regarding the nature and status of the VELCRO mark and requested corrections to definitions."

INTERROGATORY NO. 13: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner fails to state a claim upon which relief may be granted.

INTERROGATORY NO. 14: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner lacks standing to seek to cancel the Registration.

INTERROGATORY NO. 15: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner lacks a statutory entitlement to bring this claim.

INTERROGATORY NO. 16: Describe all facts and circumstances that support Respondent's

affirmative defense that the Petition should be dismissed on the basis of unclean hands.
by discovery in this matter.

INTERROGATORY NO. 17: Identify and describe all administrative proceedings and litigation involving the Velcro Marks or any allegation that Respondent violated the trademark rights of any third party, other than this proceeding.

INTERROGATORY NO. 18: Identify the person that has the ultimate authority to make decisions on Respondent's behalf regarding the Velcro Marks, including key issues like how the Velcro Marks are licensed and how they are enforced, and if the decisions are made by multiple people of equal authority, identify each such person.

INTERROGATORY NO. 19: Identify each document created by Respondent or any other lawyers that were considered by Respondent in its decision to launch the Velcro Re-education Program, including any documents reflecting any analyses of whether and to what extent each of the Velcro Marks had become generic.

INTERROGATORY NO. 20: Identify every individual that appears in the Re-Education Videos.

INTERROGATORY NO. 21: Describe all of the reasons why Respondent launched the Velcro Re-education Program, including why each of the Re-education Videos was created.

INTERROGATORY NO. 22: Identify every document that Respondent has analyzed pertaining to the issue of whether the term "Velcro" is generic or may be enforced as a trademark, whether the documents was created by Respondent or any other person.

INTERROGATORY NO. 23: State the budget for each of the Re-Education Videos.

INTERROGATORY NO. 24: State each and every code word, euphemism, or the like that has ever been used by Respondent in internal communications as a substitute for the concept of genericness, genericide, or the term “generic.”

INTERROGATORY NO. 25: Identify every employee of Respondent, whether past or current, that has ever expressed an opinion that the term “Velcro” may be, may become, or actually is generic.

INTERROGATORY NO. 26: Describe every instance where an employee of Respondent has ever expressed an opinion that the term “Velcro” may be or actually is generic.

INTERROGATORY NO. 27: Identify all persons that furnished information for the responses to these interrogatories, designating the number of each interrogatory for which such persons furnished information.

Dated: September 15, 2021
New York, New York

Respectfully submitted,
By: /s/ Paul L. Fraulo
Andrew D. Bochner, Esq.
Serge Krimnus, Esq.
Paul L. Fraulo, Esq.
Bochner IP, PLLC
295 Madison Avenue, 12th Floor
New York, NY 10017
T: 646-971-0685
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 15, 2021, I caused a true and correct copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO RESPONDENT** to be served by electronic mail only upon:

Jarvis, Joshua (JJarvis@foleyhoag.com);

Kinsley, Nicole (nkinsley@foleyhoag.com);

ttab@foleyhoag.com (ttab@foleyhoag.com);

psullivan@foleyhoag.com (psullivan@foleyhoag.com);

Belt, Erik Paul (ebelt@McCarter.com);

Ried, Alexander (aried@mccarter.com);

Shannon, Anne (ashannon@mccarter.com);

Shyavitz, Lori J. (LShyavitz@McCarter.com)

/s/ Paul L. Fraulo
Paul L. Fraulo, Esq.

EXHIBIT C

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

NHDNC LLC,)	
)	
Petitioner,)	Cancellation No. 92074468
)	
v.)	
)	
VELCRO IP HOLDINGS LLC and)	
VELCRO BVBA,)	
)	
Respondents.)	

**RESPONDENT’S RESPONSES TO
PETITIONER’S FIRST SET OF REQUESTS FOR ADMISSION**

Velcro IP Holdings LLC and Velcro BVBA (collectively, “Respondent”) pursuant to Rule 36 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, responds and objects to NHDNC LLC’s (“Petitioner”) First Requests for Admission (“Requests”) as follows.

GENERAL OBJECTIONS

The following objections are incorporated into each and every response below as though fully set forth therein:

1. Respondent objects to these Requests to the extent they seek information protected by the attorney-client privilege or the work product doctrine or that is otherwise privileged or protected from disclosure.
2. Respondent objects to the introductory definitions and instructions to these Requests to the extent they purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific Request beyond the extent permitted by the Federal Rules of Civil Procedure, Trademark Trial and Appeal Board’s Manual of Procedure, or any other applicable

rules or law on the grounds that such enlargement, expansion, or alteration renders the Requests vague, ambiguous, unintelligible, unduly broad, or unclear.

3. Respondent objects to these Requests to the extent they are overbroad, unduly burdensome, harassing, or seek information that is not relevant and that is not reasonably likely or calculated to lead to the discovery of admissible evidence.

4. Respondent objects to these Requests to the extent they seek information that is not in Respondent's possession, custody, or control.

5. Respondent objects to each Request to the extent it calls for information that is subject to any confidentiality agreement or other agreement or order between Respondent and a third party that restricts Respondent's ability to disseminate such information. Respondent reserves the right to withhold disclosure of such information unless and until Respondent is authorized by such third parties to disclose such information, as necessary.

6. Respondent objects to the extent that any Request implies the existence of facts or circumstances not of record or that do not exist, or to the extent that any Request assumes a legal conclusion. By responding, Respondent does not admit any factual or legal assumptions contained in any Request.

REQUESTS FOR ADMISSION

REQUEST NO. 1: Admit that you launched the Velcro Re-education Program because you believed that the term "Velcro" either was or is generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive

responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Trademark Trial and Appeal Board ("Board") resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 2: Admit that the Velcro Re-education Program was part of an effort to fight genericide of the Velcro Marks.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 3: Admit that the Re-education Videos were created because Respondent was concerned that the term "Velcro" either was generic or was becoming generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive

responses to Petitioner’s discovery requests. Respondent will respond to Petitioner’s requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 4: Admit that you or your counsel analyzed the issue of whether the term “Velcro” was or is generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s discovery requests. Respondent will respond to Petitioner’s requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 5: Admit that you created one or more documents reflecting a legal analysis of the issue of whether the term “Velcro” was or is becoming generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s discovery requests. Respondent will respond to Petitioner’s requests

within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 6: Admit that there are multiple documents in your possession reflecting opinions on the issue of whether the term "Velcro" is generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 7: Admit that you created a plan to avoid the general public from using the term "Velcro" generically.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an

order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 8: Admit that you have documents related to your plan to avoid the general public from using the term "Velcro" generically.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 9: Admit that you have performed or commissioned studies to determine whether and to what extent the term "Velcro" is used generically by consumers.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an

order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 10: Admit that you have no evidence to support a claim that the general public uses the phrase “hook and loop fastener” to refer to the genus of goods protected by the Challenged Mark.

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s discovery requests. Respondent will respond to Petitioner’s requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 11: Admit that the general public at least prefers to use the term “Velcro” to refer to the genus of goods protected by the Challenged Mark, rather than the term “hook and loop fastener.”

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s discovery requests. Respondent will respond to Petitioner’s requests

within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 12: Admit that the average consumer does not know that the term "Velcro" is an indication of brand rather than a designation primarily used to refer to the genus of goods protected by the Challenged Mark.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 13: Admit that a codeword for "generic" has been used by Respondent at present or in the past.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests

within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 14: Admit that a substantial portion of the public uses the term "Velcro" to refer to separable fasteners or hook and loop-type fasteners.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 15: Admit that a majority of the public uses the term "Velcro" to refer to separable fasteners or hook and loop-type fasteners.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an

order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 16: Admit that a substantial portion of sellers of separable fasteners or hook and loop-type fasteners uses the term "Velcro" to refer to separable fasteners or hook and loop-type fasteners.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

REQUEST NO. 17: Admit that a majority of sellers of separable fasteners or hook and loop-type fasteners uses the term "Velcro" to refer to separable fasteners or hook and loop-type fasteners.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's discovery requests. Respondent will respond to Petitioner's requests

within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

Dated: October 14, 2021

**VELCRO IP HOLDINGS LLC and
VELCRO BVBA**

By their attorneys,

/Erik Paul Belt/

Erik Paul Belt

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Certificate of Service

I hereby certify that, on October 14, 2021, I caused a copy of this document to be served by e-mail on counsel of record for Petitioner NHDNC LLC to andrew@bochnerip.com, admin@bochnerip.com, serge@bochnerip.com, erik@bochnerip.com, and paul@bochnerip.com.

/Alexander L. Ried/

Alexander L. Ried

EXHIBIT D

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

NHDNC LLC,)	
)	
Petitioner,)	Cancellation No. 92074468
)	
v.)	
)	
VELCRO IP HOLDINGS LLC and)	
VELCRO BVBA,)	
)	
Respondents.)	

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

Velcro IP Holdings LLC and Velcro BVBA (collectively, “Respondent”) pursuant to Rule 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, responds and objects to NHDNC LLC’s (“Petitioner”) First Set of Interrogatories (“Interrogatories”) as follows.

GENERAL OBJECTIONS

The following objections are incorporated into each and every response below as though fully set forth therein:

1. Respondent objects to these Interrogatories to the extent they are inconsistent with, or impose obligations beyond those required by the Federal Rules of Civil Procedure, the Trademark Trial and Appeal Board’s Manual of Procedure, or any other applicable rules or law.

2. Respondent objects to these Interrogatories to the extent they seek information protected by the attorney-client privilege or the work product doctrine or that is otherwise privileged or protected from disclosure. Any inadvertent production will not be deemed a waiver of any privilege with respect to the information or documents produced or their contents.

3. Respondent objects to the introductory definitions and instructions to these Interrogatories to the extent they purport to enlarge, expand, or alter in any way the plain

meaning and scope of any specific interrogatory beyond the extent permitted by the Federal Rules of Civil Procedure or any other applicable rules or law on the grounds that such enlargement, expansion, or alteration renders the Interrogatories vague, ambiguous, unintelligible, unduly broad, or unclear.

4. Respondent objects to these Interrogatories to the extent they are overbroad, unduly burdensome, harassing, or seek information that is not relevant and that is not reasonably likely or calculated to lead to the discovery of admissible evidence.

5. Respondent objects to these Interrogatories to the extent they seek information and/or identification of information, documents, or things that are not in Respondent's possession, custody, or control.

6. Respondent objects to these Interrogatories to the extent they seek information cumulative of other Interrogatories.

7. Respondent responds to these Interrogatories to the best of Respondent's present knowledge and only insofar as it may be deemed to have personal knowledge or information that forms the basis of any responses. Respondent reserves the right to supplement these responses as new information becomes available and in the event that it is so required by the Federal Rules of Civil Procedure, the Trademark Trial and Appeal Board's Manual of Procedure, or any other applicable rules or law.

8. Respondent objects to the disclosure of any and all confidential or proprietary information except in accordance with the Board's standard protective order.

9. Respondent objects to each Interrogatory to the extent it calls for information that is subject to any confidentiality agreement or other agreement or order between Respondent and a third party that restricts Respondent's ability to disseminate such information. Respondent

reserves the right to withhold disclosure of such information unless and until Respondent is authorized by such third parties to disclose such information, as necessary.

10. Respondent objects to each Interrogatory to the extent that it (a) is not reasonably restricted in scope or time; (b) utilizes terms and phrases which are undefined and are subject to varying interpretations as applied in this action; (c) is vague and ambiguous and fails to describe the information requested with reasonable particularity; (d) calls for speculation on behalf of Respondent as to the information being requested; and/or (e) calls for interpretations of contracts and other documents, the terms of which speak for themselves.

11. Respondent objects to the extent that any Interrogatory implies the existence of facts or circumstances not of record or that do not exist, or to the extent that any Interrogatory assumes a legal conclusion. By responding, Respondent does not admit any factual or legal assumptions contained in any Interrogatory.

12. Respondent reserves all objections to the relevance and form of the Interrogatories, and the admissibility of any responses to the Interrogatories and/or any information and/or document produced in response to any Interrogatory until the time of trial. These responses should not be construed as a waiver of any right to object to the relevance of any request and/or the admissibility of any responses or documents produced in response to any Interrogatory.

13. To the extent that Respondent objects to an Interrogatory as vague and ambiguous such that Respondent is required to speculate on the scope of the Interrogatory in the context of this action, Respondent may nonetheless respond to such Interrogatory, providing what Respondent believes to be a reasonable interpretation or construction. Respondent, however, shall not be deemed bound by any inconsistent interpretation applied by Petitioner. Further,

Petitioner's determination or failure to determine that information may or may not be responsive to a specific Interrogatory shall not be deemed in any manner an admission by Respondent, and Respondent shall not be deemed bound by any inconsistent interpretation applied by Petitioner. To the extent that Respondent asserts a different interpretation, Respondent reserves its rights to further object to the Interrogatory on additional grounds arising from that interpretation.

14. Respondent objects to each Interrogatory to the extent it is argumentative, based on unsupported assumptions of fact or law, or otherwise lacks a factual or legal foundation.

15. Respondent objects to each and every Interrogatory the response to which may be derived or ascertained from documents that are readily available to Petitioner. To the extent the response to an Interrogatory can be ascertained or derived from documents that are readily available to Petitioner, the development of that response is significantly more convenient and less burdensome for Petitioner than it is for Respondent and Petitioner accordingly should bear that burden.

16. No incidental or implied admissions are intended by these responses. The fact that Respondent has answered or not objected to any particular Interrogatory or any part thereof should not be taken as an admission that it accepts or admits the existence of any facts set forth or presupposed by such Interrogatory or that such response or lack of objection(s) constitutes admissible evidence. That Respondent has answered all or any part of any Interrogatory is not intended, and shall not be construed to be, a waiver of any objection(s) to any aspects of the Interrogatories.

17. Respondent objects to the time period of the Requests, namely, commencing June 7, 2010, up to and including the future date of resolution of this action, as unduly burdensome.

INTERROGATORIES

INTERROGATORY NO. 1: Identify by jurisdiction and registration or serial number any and all federal and state trademark registration(s) and application(s), whether current (including pending) or dead, for the Velcro Marks.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Trademark Trial and Appeal Board ("Board") resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 2: For each good or service that Respondent has offered, sold, or provided under or in connection with the Challenged Mark, state the suggested or expected retail price of the good or service.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to

disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 3: Describe the nature of any 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 Respondent is using, has used, or plans to use the Velcro Marks.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 4: Identify all persons who participated in or were or are responsible for the marketing or advertising of any goods or services offered for sale, sold, or intended to be offered for sale or sold by or for Respondent or its licensees under or in connection with the Velcro Marks.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 5: Identify all website(s) displaying the Velcro Marks that are owned, operated, or controlled by Respondent, and all persons who participated in or were or are responsible for the creation and development of each website.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 6: Describe all market research conducted by or on behalf of Respondent concerning the Velcro Marks or any goods or services marketed or proposed to be marketed under the Velcro Marks, including the results of such research.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 7: Identify and describe all expenditures incurred by you in connection with the development, production, distribution, promotion, advertisement, and sale of any goods or services under the Velcro Marks, including by identifying the nature and amount of each expenditure.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's

interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 8: Identify all surveys conducted by or on behalf of Respondent concerning the Velcro Marks or any other mark that incorporates the Challenged Mark in whole or in part, by date, title, the entity conducting the survey, and the person requesting the survey.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 9: Identify all agreements concerning the Velcro Marks by date, parties to the agreement, and the subject matter of the agreement.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent

will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 10: Describe in detail any communications between Respondent and any third party concerning Petitioner or Petitioner's Marks, and any actions taken by Respondent as a result of such communications.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 11: Describe the circumstances and reasoning behind Respondent's recent decision to assign the Challenged Mark (see 13 TTABVUE).

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and

given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 12: Describe all facts and circumstances that support Respondent's statement in paragraph 28 that "Velcro Companies have educated the publishers of dictionaries regarding the nature and status of the VELCRO mark and requested corrections to definitions."

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 13: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner fails to state a claim upon which relief may be granted.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 14: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner lacks standing to seek to cancel the Registration.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 15: Describe all facts and circumstances that support Respondent's affirmative defense that Petitioner lacks a statutory entitlement to bring this claim.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 16: Describe all facts and circumstances that support Respondent's affirmative defense that the Petition should be dismissed on the basis of unclean hands. by discovery in this matter.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the

Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 17: Identify and describe all administrative proceedings and litigation involving the Velcro Marks or any allegation that Respondent violated the trademark rights of any third party, other than this proceeding.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 18: Identify the person that has the ultimate authority to make decisions on Respondent's behalf regarding the Velcro Marks, including key issues like how the Velcro Marks are licensed and how they are enforced, and if the decisions are made by multiple people of equal authority, identify each such person.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent

will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 19: Identify each document created by Respondent or any other lawyers that were considered by Respondent in its decision to launch the Velcro Re-education Program, including any documents reflecting any analyses of whether and to what extent each of the Velcro Marks had become generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 20: Identify every individual that appears in the Re-Education Videos.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 21: Describe all of the reasons why Respondent launched the Velcro Re-education Program, including why each of the Re-education Videos was created.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 22: Identify every document that Respondent has analyzed pertaining to the issue of whether the term “Velcro” is generic or may be enforced as a trademark, whether the documents was created by Respondent or any other person.

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s interrogatories. Respondent will respond to Petitioner’s interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board’s decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 23: State the budget for each of the Re-Education Videos.

RESPONSE: This proceeding is suspended pending the disposition of Respondent’s Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner’s counsel should not have access to Respondent’s documents and other discovery responses unless and until the petition is resolved in Petitioner’s favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner’s interrogatories. Respondent will respond to Petitioner’s interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the

Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 24: State each and every code word, euphemism, or the like that has ever been used by Respondent in internal communications as a substitute for the concept of genericness, genericide, or the term "generic."

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 25: Identify every employee of Respondent, whether past or current, that has ever expressed an opinion that the term "Velcro" may be, may become, or actually is generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and

substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 26: Describe every instance where an employee of Respondent has ever expressed an opinion that the term "Velcro" may be or actually is generic.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

INTERROGATORY NO. 27: Identify all persons that furnished information for the responses to these interrogatories, designating the number of each interrogatory for which such persons furnished information.

RESPONSE: This proceeding is suspended pending the disposition of Respondent's Petition to Disqualify. Given the issues presented in that petition and the suspension of proceedings, and given that Petitioner's counsel should not have access to Respondent's documents and other

discovery responses unless and until the petition is resolved in Petitioner's favor, Respondent will not respond in substance at this time. Respondent thus reserves all objections and substantive responses to Petitioner's interrogatories. Respondent will respond to Petitioner's interrogatories within a reasonable time after the Board resolves the pending petition to disqualify and issues an order lifting the suspension of proceedings and, depending on the Board's decision, after Petitioner retains new counsel or after entry of an amended protective order.

Dated: October 14, 2021

**VELCRO IP HOLDINGS LLC and
VELCRO BVBA**

By their attorneys,

/Erik Paul Belt/

Erik Paul Belt

Lori J. Shyavitz

Anne E. Shannon

Alexander L. Ried

McCarter & English, LLP

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bostontrademarks@mccarter.com

Certificate of Service

I hereby certify that, on October 14, 2021, I caused a copy of this document to be served by e-mail on counsel of record for Petitioner NHDNC LLC to andrew@bochnerip.com, admin@bochnerip.com, serge@bochnerip.com, erik@bochnerip.com, and paul@bochnerip.com.

/Alexander L. Ried/
Alexander L. Ried

EXHIBIT E

Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses
Date: Monday, April 25, 2022 at 10:20:43 PM Eastern Daylight Time
From: Serge Krimnus
To: Ried, Alexander, Andrew Bochner
CC: Belt, Erik Paul, Shyavitz, Lori J., Shannon, Anne
Attachments: image001.png

Counsel,

We write in response to your letter of April 5, 2022. The most perplexing aspect of your letter is that you continue to harass NHDNC for discovery despite having failed to produce a single document, having failed to admit or deny NHDNC's Requests for Admission, and having failed to substantively respond to our Interrogatories. Your entire approach to discovery is in violation of Rule 37 of the Federal Rules of Civil Procedure, and the claims you make in your letter are outlandish and unsupported by case law. Any motion to compel will be met with a cross-motion. Please amend your discovery responses immediately and produce all non-AEO documents immediately.

First, Velcro claims that NHDNC does not have attorney-client privilege simply because certain attorneys were disqualified from representation. Disqualification only impacts an attorney's ability to appear, argue, and file on a party's behalf in a particular proceeding. If the attorney-client privilege were destroyed every time counsel was disqualified, attorney-client privilege would be a dead letter. *Mose v. Keybank Nat'l Ass'n*, No. 11-162-JJB-SCR, 2011 U.S. Dist. LEXIS 76017 at *10-11 (M.D. La. July 13, 2011) (explaining that "even if Mandell and Metcalf were disqualified, Keybank could still assert attorney-client privilege over its communications with Specht and Lee. The attorney-client privilege belongs to the client, rather than the attorney, and it applies not only to the client's present attorney but to the client's former attorney."). You do not cite a single case for your position on this issue. That is most certainly because there is none. Please support your arguments with case law or we will consider them withdrawn.

Second, responses in which NHDNC directs Velcro to the entirety of its document production are proper and such assertions are made in good faith. Any limitation among the documents at this stage and in this regard could be misleading, as we believe all the documents are potentially relevant to each interrogatory you enumerated (Nos. 2, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24, 25, 26, 27, 28, 29, 30, and 31). Further, the claim that you cannot locate and identify the relevant documents is simply untenable. Our entire production to date is fewer than 30 documents and totals 514 pages. We will assume you copied and pasted this sentence from another letter in a different litigation because it is so grossly incompatible with the present circumstances. Moreover, and once again, please do not complain to us about minutiae of our discovery responses when Velcro hasn't produced a single document. Please produce all responsive documents immediately. Likewise, and in regard to your allegation that our responses to interrogatories are improper, we ask that you make good on your promise to supplement your interrogatory responses after the Board ruled on your motion. Please supplement your interrogatory responses immediately.

Third, with regard to our statement that certain information is more easily conveyed through deposition, we are unsure what your issue is with our response. We did not indicate that any information was being withheld on the basis of this statement. We only indicated that we might be able to provide more clarity in the context of a deposition. A deposition with one of NHDNC's representatives would allow us to explain more fully the story of the company, what we know, and also what we don't know, and why. We suggest we exchange dates for depositions in this case.

Fourth, we will verify our responses in short order. However, having failed to even respond substantively to our interrogatories, we do not believe Velcro is in a position to demand anything from us at this juncture. Please provide us with substantive responses immediately.

Fifth, we will reconsider the designations of our documents. However, having failed to produce even a single document in response to NHDNC's Requests for Production of Documents, we do not believe Velcro is in a position to demand anything from us at this juncture. Please provide us with your documents immediately.

Sixth, NHDNC will consider amending our responses to indicate what documents are being withheld and on what basis once Velcro provides its responses, clearly indicating the same.

Regards,
Serge Krimnus

From: Ried, Alexander <ariied@mccarter.com>
Date: Tuesday, April 19, 2022 at 9:56 AM
To: Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LShyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>, Serge Krimnus <serge@bochnerip.com>
Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

On April 5 we sent you the attached letter addressing deficiencies in NHDNC's discovery responses and inviting you to meet and confer with us on the issues raised in the letter. Despite two weeks passing, we have still not received any response from you. If we do not receive a response from you by April 26 we will assume you oppose and we will file a motion to compel.

Regards,
Alex

From: Ried, Alexander
Sent: Tuesday, April 5, 2022 9:20 PM
To: Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@mccarter.com>; Shyavitz, Lori J. <lshyavitz@mccarter.com>; Shannon, Anne <ashannon@mccarter.com>; 'serge@bochnerip.com' <serge@bochnerip.com>
Subject: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

Please see the enclosed letter sent on behalf of Velcro BVBA and Velcro IP Holdings LLC.

Regards,
Alex



Alexander L. Ried | Associate

McCarter & English, LLP
265 Franklin Street | Boston, MA 02110

aried@mccarter.com | www.mccarter.com | [V-Card](#)
T [617.535.6262](tel:617.535.6262)

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EXHIBIT F

Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses
Date: Thursday, May 5, 2022 at 6:14:20 PM Eastern Daylight Time
From: Serge Krimnus
To: Ried, Alexander, Andrew Bochner
CC: Belt, Erik Paul, Shyavitz, Lori J., Shannon, Anne
Attachments: image001.png

Counsel,

We have addressed your issues. If we missed one, please let us know which issues we missed. However, you did not address any of the issues we raised with your discovery responses in our email of April 25, 2022. Please provide us with a written response by the end of the week.

We have specifically requested that you produce all responsive documents immediately. We produced our documents in September 2021. It is now May, 2022. We have been waiting 8 months and you have yet to produce a single document. You stood on improper objections that ultimately proved to be completely without merit on all but AEO documents, which you will be required to produce to our outside counsel in due course.

Likewise, we have specifically requested that you make good on your promise to supplement your interrogatory responses and responses to requests for admission after the Board ruled on your motion. Please supplement both your interrogatory responses and responses to requests for admission immediately.

Given your conduct thus far in discovery and specifically the above two reasons, we will not agree to sideline our request to meet and confer while agreeing to your request to meet and confer. Please provide us with a written response to the issues raised in our letter and let us know your availability to meet and confer on both Velcro's alleged issues with NHDNC's discovery responses as well as the glaring deficiencies in Velcro's discovery responses and production to date. Both meet and confer conferences shall be conducted simultaneously.

Finally, regarding your issue with the email addresses Andrew and I are using, there is nothing improper about us using our work email addresses to receive emails related to our Company NHDNC. We do not have emails set up for this proceeding and we will not be setting them up unless you have case law to support your position that we need to.

Regards

From: Ried, Alexander <ariied@mccarter.com>
Date: Thursday, May 5, 2022 at 3:15 PM
To: Serge Krimnus <serge@bochnerip.com>, Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LSHyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>
Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Serge,

I'm following up on my below email. Please provide us with times you are available to meet and confer tomorrow.

Regards,
Alex

From: Ried, Alexander
Sent: Tuesday, May 3, 2022 5:01 PM
To: 'Serge Krimnus' <serge@bochnerip.com>; Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@mccarter.com>; Shyavitz, Lori J. <lshyavitz@mccarter.com>; Shannon, Anne <ashannon@mccarter.com>
Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Serge,

In your email below, you failed to address all of the issues we raised in our letter dated April 5, 2022 and instead you raise other issues. We will address the issues you raised in your email below after we meet and confer regarding the issues we raised with your deficient discovery responses. Accordingly, please provide times you are available this week to meet and confer regarding the issues we raised in our April 5, 2022 letter.

Also, you continue to use BochnerIP email addresses despite the Board's Order disqualifying the BochnerIP firm from representing NHDNC in this proceeding. Your use of BochnerIP email addresses appears to us as though the BochnerIP firm is continuing to represent NHDNC in defiance of the Board's Disqualification Order. Accordingly, please provide us with alternative email addresses for both you and Andrew Bochner at which we can contact you regarding this proceeding.

Regards,
Alex

From: Serge Krimnus <serge@bochnerip.com>
Sent: Monday, April 25, 2022 10:21 PM
To: Ried, Alexander <aried@mccarter.com>; Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>; Shyavitz, Lori J. <LShyavitz@McCarter.com>; Shannon, Anne <ashannon@mccarter.com>
Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

****External Message****

Counsel,

We write in response to your letter of April 5, 2022. The most perplexing aspect of your letter is that you continue to harass NHDNC for discovery despite having failed to produce a single document, having failed to admit or deny NHDNC's Requests for Admission, and having failed to substantively respond to our Interrogatories. Your entire approach to discovery is in violation of Rule 37 of the Federal Rules of Civil Procedure, and the claims you make in your letter are outlandish and unsupported by case law. Any motion to compel will be met with a cross-motion. Please amend your discovery responses immediately and produce all non-AEO documents immediately.

First, Velcro claims that NHDNC does not have attorney-client privilege simply because certain attorneys were disqualified from representation. Disqualification only impacts an attorney's ability to appear, argue, and file on a party's behalf in a particular proceeding. If the attorney client privilege were destroyed every time counsel was disqualified, attorney client privilege would be a dead letter. *Mose v.*

Keybank Nat'l Ass'n, No. 11-162-JJB-SCR, 2011 U.S. Dist. LEXIS 76017 at *10-11 (M.D. La. July 13, 2011) (explaining that “even if Mandell and Metcalf were disqualified, Keybank could still assert attorney-client privilege over its communications with Specht and Lee. The attorney-client privilege belongs to the client, rather than the attorney, and it applies not only to the client's present attorney but to the client's former attorney.”). You do not cite a single case for your position on this issue. That is most certainly because there is none. Please support your arguments with case law or we will consider them withdrawn.

Second, responses in which NHDNC directs Velcro to the entirety of its document production are proper and such assertions are made in good faith. Any limitation among the documents at this stage and in this regard could be misleading, as we believe all the documents are potentially relevant to each interrogatory you enumerated (Nos. 2, 3, 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 22, 24, 25, 26, 27, 28, 29, 30, and 31). Further, the claim that you cannot locate and identify the relevant documents is simply untenable. Our entire production to date is fewer than 30 documents and totals 514 pages. We will assume you copied and pasted this sentence from another letter in a different litigation because it is so grossly incompatible with the present circumstances. Moreover, and once again, please do not complain to us about minutiae of our discovery responses when Velcro hasn't produced a single document. Please produce all responsive documents immediately. Likewise, and in regard to your allegation that our responses to interrogatories are improper, we ask that you make good on your promise to supplement your interrogatory responses after the Board ruled on your motion. Please supplement your interrogatory responses immediately.

Third, with regard to our statement that certain information is more easily conveyed through deposition, we are unsure what your issue is with our response. We did not indicate that any information was being withheld on the basis of this statement. We only indicated that we might be able to provide more clarity in the context of a deposition. A deposition with one of NHDNC's representatives would allow us to explain more fully the story of the company, what we know, and also what we don't know, and why. We suggest we exchange dates for depositions in this case.

Fourth, we will verify our responses in short order. However, having failed to even respond substantively to our interrogatories, we do not believe Velcro is in a position to demand anything from us at this juncture. Please provide us with substantive responses immediately.

Fifth, we will reconsider the designations of our documents. However, having failed to produce even a single document in response to NHDNC's Requests for Production of Documents, we do not believe Velcro is in a position to demand anything from us at this juncture. Please provide us with your documents immediately.

Sixth, NHDNC will consider amending our responses to indicate what documents are being withheld and on what basis once Velcro provides its responses, clearly indicating the same.

Regards,
Serge Krimnus

From: Ried, Alexander <ariied@mccarter.com>

Date: Tuesday, April 19, 2022 at 9:56 AM

To: Andrew Bochner <andrew@bochnerip.com>

Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LShyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>, Serge Krimnus <serge@bochnerip.com>

Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

On April 5 we sent you the attached letter addressing deficiencies in NHDNC's discovery responses and inviting you to meet and confer with us on the issues raised in the letter. Despite two weeks passing, we have still not received any response from you. If we do not receive a response from you by April 26 we will assume you oppose and we will file a motion to compel.

Regards,
Alex

From: Ried, Alexander
Sent: Tuesday, April 5, 2022 9:20 PM
To: Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@mccarter.com>; Shyavitz, Lori J. <lshyavitz@mccarter.com>; Shannon, Anne <ashannon@mccarter.com>; 'serge@bochnerip.com' <serge@bochnerip.com>
Subject: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

Please see the enclosed letter sent on behalf of Velcro BVBA and Velcro IP Holdings LLC.

Regards,
Alex



Alexander L. Ried | Associate

McCarter & English, LLP
265 Franklin Street | Boston, MA 02110

aried@mccarter.com | www.mccarter.com | [V-Card](#)
T 617.535.6262

Boston | Hartford | Stamford | New York | Newark | East Brunswick | Philadelphia | Wilmington | Washington, DC | Miami

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EXHIBIT G

Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses
Date: Monday, May 9, 2022 at 3:55:31 PM Eastern Daylight Time
From: Serge Krimnus
To: Ried, Alexander, Andrew Bochner
CC: Belt, Erik Paul, Shyavitz, Lori J., Shannon, Anne
Attachments: image001.png

Counsel,

Are you refusing to meet and confer on the glaring issues NHDNC has identified with Velcro's responses? We are available to meet and confer on both parties' discovery issues on Wednesday at 11AM. Please confirm.

However, your continued delay in supplementing your responses to NHDNC's interrogatories and requests for admission is absolutely unacceptable. And you have not produced a single document at this point, which is also completely unacceptable.

It is becoming increasingly clear that Velcro has no intention of participating in discovery in this case, and we cannot continue to spend time addressing minutiae with our discovery responses and document production while you refuse to even begin to participate in the discovery process. We will have no choice but to raise these issues with the Board where we will also seek sanctions including an order that all of Velcro's objections are waived.

Regards,

From: Ried, Alexander <aried@mccarter.com>
Date: Friday, May 6, 2022 at 2:49 PM
To: Serge Krimnus <serge@bochnerip.com>, Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LShyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>
Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Counsel,

We disagree that the issues we have raised with you have been fully resolved. We think the most efficient course of action would be to schedule a call to discuss them. Please advise as to your availability for a call this afternoon, or Monday, May 9.

Thanks,
Alex

From: Serge Krimnus <serge@bochnerip.com>
Sent: Thursday, May 5, 2022 4:13 PM
To: Ried, Alexander <aried@mccarter.com>; Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>; Shyavitz, Lori J. <LShyavitz@McCarter.com>; Shannon, Anne <ashannon@mccarter.com>
Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

****External Message****

Counsel,

We have addressed your issues. If we missed one, please let us know which issues we missed. However, you did not address any of the issues we raised with your discovery responses in our email of April 25, 2022. Please provide us with a written response by the end of the week.

We have specifically requested that you produce all responsive documents immediately. We produced our documents in September 2021. It is now May, 2022. We have been waiting 8 months and you have yet to produce a single document. You stood on improper objections that ultimately proved to be completely without merit on all but AEO documents, which you will be required to produce to our outside counsel in due course.

Likewise, we have specifically requested that you make good on your promise to supplement your interrogatory responses and responses to requests for admission after the Board ruled on your motion. Please supplement both your interrogatory responses and responses to requests for admission immediately.

Given your conduct thus far in discovery and specifically the above two reasons, we will not agree to sideline our request to meet and confer while agreeing to your request to meet and confer. Please provide us with a written response to the issues raised in our letter and let us know your availability to meet and confer on both Velcro's alleged issues with NHDNC's discovery responses as well as the glaring deficiencies in Velcro's discovery responses and production to date. Both meet and confer conferences shall be conducted simultaneously.

Finally, regarding your issue with the email addresses Andrew and I are using, there is nothing improper about us using our work email addresses to receive emails related to our Company NHDNC. We do not have emails set up for this proceeding and we will not be setting them up unless you have case law to support your position that we need to.

Regards

From: Ried, Alexander <ariied@mccarter.com>

Date: Thursday, May 5, 2022 at 3:15 PM

To: Serge Krimnus <serge@bochnerip.com>, Andrew Bochner <andrew@bochnerip.com>

Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LSHyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>

Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Serge,

I'm following up on my below email. Please provide us with times you are available to meet and confer tomorrow.

Regards,
Alex

From: Ried, Alexander

Sent: Tuesday, May 3, 2022 5:01 PM

To: 'Serge Krimnus' <serge@bochnerip.com>; Andrew Bochner <andrew@bochnerip.com>

Cc: Belt, Erik Paul <ebelt@mccarter.com>; Shyavitz, Lori J. <lshyavitz@mccarter.com>; Shannon, Anne <ashannon@mccarter.com>

Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Serge,

In your email below, you failed to address all of the issues we raised in our letter dated April 5, 2022 and instead you raise other issues. We will address the issues you raised in your email below after we meet and confer regarding the issues we raised with your deficient discovery responses. Accordingly, please provide times you are available this week to meet and confer regarding the issues we raised in our April 5, 2022 letter.

Also, you continue to use BochnerIP email addresses despite the Board's Order disqualifying the BochnerIP firm from representing NHDNC in this proceeding. Your use of BochnerIP email addresses appears to us as though the BochnerIP firm is continuing to represent NHDNC in defiance of the Board's Disqualification Order. Accordingly, please provide us with alternative email addresses for both you and Andrew Bochner at which we can contact you regarding this proceeding.

Regards,
Alex

From: Serge Krimnus <serge@bochnerip.com>

Sent: Monday, April 25, 2022 10:21 PM

To: Ried, Alexander <ariied@mccarter.com>; Andrew Bochner <andrew@bochnerip.com>

Cc: Belt, Erik Paul <ebelt@McCarter.com>; Shyavitz, Lori J. <LShyavitz@McCarter.com>; Shannon, Anne <ashannon@mccarter.com>

Subject: Re: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

****External Message****

Counsel,

We write in response to your letter of April 5, 2022. The most perplexing aspect of your letter is that you continue to harass NHDNC for discovery despite having failed to produce a single document, having failed to admit or deny NHDNC's Requests for Admission, and having failed to substantively respond to our Interrogatories. Your entire approach to discovery is in violation of Rule 37 of the Federal Rules of Civil Procedure, and the claims you make in your letter are outlandish and unsupported by case law. Any motion to compel will be met with a cross-motion. Please amend your discovery responses immediately and produce all non-AEO documents immediately.

First, Velcro claims that NHDNC does not have attorney-client privilege simply because certain attorneys were disqualified from representation. Disqualification only impacts an attorney's ability to appear, argue, and file on a party's behalf in a particular proceeding. If the attorney-client privilege were destroyed every time counsel was disqualified, attorney-client privilege would be a dead letter. *Mose v. Keybank Nat'l Ass'n*, No. 11-162-JJB-SCR, 2011 U.S. Dist. LEXIS 76017 at *10-11 (M.D. La. July 13, 2011) (explaining that "even if Mandell and Metcalf were disqualified, Keybank could still assert attorney-client privilege over its communications with Specht and Lee. The attorney-client privilege belongs to the client, rather than the attorney, and it applies not only to the client's present attorney but to the client's former attorney."). You do not cite a single case for your position on this issue. That is

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From: Ried, Alexander <ariied@mccarter.com>
Date: Tuesday, April 19, 2022 at 9:56 AM
To: Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@McCarter.com>, Shyavitz, Lori J. <LShyavitz@McCarter.com>, Shannon, Anne <ashannon@mccarter.com>, Serge Krimnus <serge@bochnerip.com>
Subject: RE: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

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inviting you to meet and confer with us on the issues raised in the letter. Despite two weeks passing, we have still not received any response from you. If we do not receive a response from you by April 26 we will assume you oppose and we will file a motion to compel.

Regards,
Alex

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Sent: Tuesday, April 5, 2022 9:20 PM
To: Andrew Bochner <andrew@bochnerip.com>
Cc: Belt, Erik Paul <ebelt@mccarter.com>; Shyavitz, Lori J. <lshyavitz@mccarter.com>; Shannon, Anne <ashannon@mccarter.com>; 'serge@bochnerip.com' <serge@bochnerip.com>
Subject: NHDNC v. Velcro BVBA et al - NHDNC's Deficient Discovery Responses

Andrew,

Please see the enclosed letter sent on behalf of Velcro BVBA and Velcro IP Holdings LLC.

Regards,
Alex



Alexander L. Ried | Associate

McCarter & English, LLP
265 Franklin Street | Boston, MA 02110

aried@mccarter.com | www.mccarter.com | V-Card
T 617.535.6262

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Certificate of Service

I hereby certify that true and complete copies of the foregoing PETITIONER'S MOTION TO COMPEL AND HAVE ITS REQUESTS FOR ADMISSION DEEMED ADMITTED and DECLARATION OF SERGE KRIMNUS IN SUPPORT OF PETITIONER'S MOTION TO COMPEL AND HAVE ITS REQUESTS FOR ADMISSION DEEMED ADMITTED have been served on opposing counsel by electronic mail on June 27, 2022, to:

Jarvis, Joshua (JJarvis@foleyhoag.com);

Kinsley, Nicole (nkinsley@foleyhoag.com);

ttab@foleyhoag.com (ttab@foleyhoag.com);

psullivan@foleyhoag.com (psullivan@foleyhoag.com);

Belt, Erik Paul (ebelt@McCarter.com);

Ried, Alexander (aried@mccarter.com);

Shannon, Anne (ashannon@mccarter.com);

Shyavitz, Lori J. (LShyavitz@McCarter.com)

/Howard Eichenblatt/
Attorney for Petitioner