ESTTA Tracking number: **ESTTA1154122**
Filing date: **08/18/2021**

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

Proceeding	92075865
Party	Defendant Linq3 Technologies, LLC
Correspondence Address	CHRISTIANE CAMPBELL DUANE MORRIS LLP 30TH S 17TH STREET PHILADELPHIA, PA 19103 UNITED STATES Primary Email: ccampbell@duanemorris.com Secondary Email(s): RLMcGrath@duanemorris.com, Lmat-turri@duanemorris.com, IDocketing@duanemorris.com 215-979-1817
Submission	Reply in Support of Motion
Filer's Name	Christiane Campbell
Filer's email	Ccampbell@duanemorris.com, lmatturri@duanemorris.com, RLMc-Grath@duanemorris.com, idocketing@duanemorris.com
Signature	/Christiane Campbell/
Date	08/18/2021
Attachments	Reply to Motion to Compel and Exhibits.pdf(1412776 bytes)

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

BLACKHAWK NETWORK, INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No.: 92075865
v.	)	Registration No.: 5,991,863
	)	Mark: QUICKTICKET
LINQ3 TECHNOLOGIES, LLC,	)	
	)	
Registrant.	)	
	)	

REGISTRANT'S REPLY TO MOTION TO COMPEL DISCOVERY FROM PETITIONER

I. INTRODUCTION

In its Opposition to Linq3's Motion to Compel Discovery, Petitioner Blackhawk Network, Inc.'s ***concedes*** that Linq3's revised Discovery Requests, served on June 4, 2021 (hereinafter "Linq3's Discovery Requests") are within the allowable limit of 75 interrogatories and 75 document requests – "Petitioner determined that Registrant's revised First Set of Interrogatories included 68 interrogatories and that Registrant's revised First Set of Requests for Production included 75 requests" (TTABVUE #11, page 4). There is thus no basis for Petitioner to refuse to respond to Linq 3's Discovery Requests. On this ground alone, the Board should grant Linq3's Motion to Compel.

Notwithstanding this concession, Petitioner argues that its refusal to respond to any of Linq3's Discovery Requests is appropriate because Linq3 would not agree with Petitioner's arbitrary and biased designation of certain requests as "mandatory." Petitioner's position is untenable for two reasons.

First, Petitioner's use of the word "mandatory" – nearly 15 times in Petitioner's

Opposition brief itself – to characterize certain of Linq3's requests finds no basis in the TBMP, TTAB, or Federal case law. This is a term Petitioner unilaterally adopted and in no way reflects a proper approach to discovery. Petitioner's assertion to the contrary, Linq3 *never* agreed to such terminology in the parties' June 11, 2021 meet and confer. Indeed, the word "mandatory" inappropriately suggests there are aspects of the requests that are optional and thus could simply be disregarded, which is certainly not the case. As Linq3 explained, the vast majority of what Petitioner counted as separate "subparts" in fact constitute "examples" that further illustrate the types of documents and information that a complete response must include. As such, agreeing that such aspects are non-mandatory would be utterly inconsistent with the approach Linq3 has unwaveringly taken.

Second, and most importantly, the fact that Linq3 would not agree to "Petitioner's identification and count of the mandatory portions [*sic*] of Registrant's Revised Discovery Requests," is absolutely irrelevant to Petitioner's obligation to respond given that the requests are within the number permitted by the Board's rules under ***either party's*** counting methodology. (TTABVUE #11, page 4). Linq3 believed it had served 54 requests for production and 54 interrogatories in Linq3's Discovery Requests, while Petitioner believed Linq3 had served 68 interrogatories and 75 requests for production, but such disagreement does not excuse Petitioner from providing ***any*** discovery responses given that both counts are within the allowable limits. Indeed, the dispute over which counting methodology is proper is, at this point, simply theoretical as it will not affect the discovery process unless Linq3 serves additional requests that Petitioner claims exceed the number allowed by the rules or if Petitioner intentionally withheld responsive documents/information on the ground that a request was not "mandatory." Neither theoretical possibility, however, justifies the withholding of all responsive documents/information, as Petitioner has done.

II. ARGUMENT

Linq3 acknowledges TBMP § 502.02(b), and submits this reply brief not to present the same arguments set forth in its Motion to Compel, but to address the arguments raised in Petitioner's opposition and otherwise correct the record as to what in fact occurred.

A. Petitioner Has Mischaracterized the Parties' Communications

As an initial matter, Linq3 is compelled to address Petitioner's mischaracterizations of the parties' communications preceding Linq3's motion. Specifically, and contrary to Petitioner's assertion, Linq3 never agreed during the parties' June 11, 2021 meet and confer that "the individual items following the qualifying language" are not "mandatory" (TTABVUE #11, page 3) (referring to the parties' purported "agreed-upon method for counting . . . only the portions that Petitioner identified as mandatory").[1] That was a designation Blackhawk unilaterally adopted ***after*** the parties' meet and confer (TTABVUE #9, Ex. F). ***During*** the meet and confer, the parties agreed that when Linq3 used phrases such as "including but not limited" followed by specific examples, it was not identifying separate discovery requests, but was further explaining the type of information sought by the request (TTABVUE #9, Ex. F). Such exemplary clauses are not subparts, but simply more fully describe the topic of the discovery request in order to avoid objections due to vagueness or ambiguity.

It was not until Petitioner's July 15, 2021 communication that it became apparent to Linq3 that Petitioner was relying on its use of the term "mandatory" to mischaracterize the parties' agreement and miscount Linq3's Discovery Requests. At that point, Linq3 made its

---

[1] The word "mandatory" means "required by a law or rule." (*See* **Exhibit A**, a true and accurate screenshot from https://www.merriam-webster.com/dictionary/mandatory). Thus, under Petitioner's approach, any portion of Linq3's requests that Petitioner did not deem mandatory would, by definition, not be required, *i.e.*, it would be only optional. The clauses at issue, however, are "exemplary," meaning "serving as an example, instance, or illustration." (*See id.*, a true and accurate screenshots from https://www.merriam-webster.com/dictionary/exemplary). Exemplary clauses are not "optional," nor do they count as separate requests.

position regarding Blackhawk's use of that terminology clear:

> We do not agree to the characterization of certain of the exemplary items as 'mandatory" and others presumably the opposite or, optional. Again, using Interrogatory 14 as an example: What is mandatory, as we understand that term, is for Blackhawk to produce all "agreements concerning Petitioner's Marks" to the extent such agreements are relevant, not privileged, and discoverable. We would expect a complete production to include assignments, licenses, vendor agreements, etc., and quite possibly types of agreements not included in the examples we identified. Anything less would be deficient, and an objection at this point on the basis of vagueness or overbreadth would be, quite literally, incredible.

(*See* TTABVUE #9, Exhibit H). Petitioner is thus wrong in claiming there was an "agreed-upon interpretation" between the parties' in connection with Petitioner's counting methodology.[2]

B. Petitioner Was Obligated to Respond to Linq3's Discovery Requests

Petitioner now contends it was proper for it to object to Linq3's Discovery Requests in lieu of responding to them, because the revised requests purportedly include "170 subparts in the interrogatories and 206 subparts in the requests for production" (TTABVUE 11, page 9). Yet Petitioner never explains how it went from agreeing that "Registrant's revised First Set of Interrogatories included 68 interrogatories and that Registrant's revised first Set of Requests for Production included 75 requests" on June 15, 2021 to somehow concluding six days later, on June 21, 2021, that "the Revised Discovery Requests . . . still far exceed the Board's limit of 75 Requests" (TTABVUE #11, page 4, 5-6; TTABVUE # 9, Ex. M). In fact, the *only* thing that changed in those six days was Linq3's refusal to be unfairly coerced into accepting Petitioner's flawed and baseless counting methodology. But the parties' disagreement over the proper method for counting Linq3's Discovery Requests does not justify Petitioner's wholesale refusal to provide any responsive discovery. Indeed, there is no dispute that even using Petitioner's

[2] Petitioner is also wrong to imply that Linq3's insistence on June 4, 2021, as opposed to June 15, 2021, as the effective date of service was to blame, at least in part, for this dispute. Petitioner's opposition ignores that Linq3 plainly stated it would provide Petitioner an extension of time to July 15, 2021 if it so needed.

overly-liberal counting methodology, where virtually any clause set off by commas constitutes a separate request, Linq3's Discovery Requests include only 68 Interrogatories and 75 requests for Production, within the limits set by the rules. (TTABVUE #11, page 4). As such, it is of no moment that Linq3 used a different methodology that resulted in a lower count. Parties frequently agree to disagree where, as here, their competing positions are not ripe for consideration by the Board. Since the Board would only need to address the parties' dispute regarding the precise number of requests at such time that Linq3 serves additional Requests for Production or more than 7 additional Interrogatories – ***something that may never happen*** – there is no reason for the Board to be burdened at this time with determining whether it is Linq3's count or Petitioner's count that is the correct one; either way, Linq3's Discovery Requests are compliant with the rules. As such, Petitioner is not permitted to craft its own remedy by withholding discovery responses because Linq3 disagreed with Petitioner's flawed counting methodology.

Linq3 suspects Petitioner's true motivation for holding its discovery responses hostage to Linq3's agreement with Petitioner's "mandatory" terminology is to foreclose Linq3's ability to question the thoroughness of Petitioner's responses. That is, Petitioner could simply excuse its failure to produce certain documents on the ground that such documents were not sought through a "mandatory" portion of the request. Such gamesmanship should not be permitted and is a clear display of bad faith.

C. Petitioner Has Applied a Different Counting Methodology For Its Own Discovery Requests

Petitioner's opposition again confirms that Petitioner continues to miscount Linq3's Discovery Requests in ways that go beyond simply treating exemplary statements as optional and in ways inconsistent with its own discovery requests to Linq3, including counting

synonymous, clarifying terms as separate requests. For instance, Linq3's Document Request No. 19 seeks documents regarding Petitioner's "selection and adoption" of the QUICKTICKET Mark (TTABVUE #9, Ex. D). Relying on TBMP 405.03, which uses the example of "adoption and use" being two separate interrogatories, Petitioner has miscounted Document Request No. 19 as two separate requests. But, as Linq3 explained in subsequent correspondence, the terms "selection and adoption" are, in this context, relative to the same transaction, set of facts, and – ultimately – same issue. This is distinguishable from "adoption and use," which may involve two separate acts. Petitioner itself recognized this distinction when it used the same "selection and adoption" phrase in its own document requests served on Linq3, something Linq3 pointed out to Petitioner by email dated June 17, 2021:

> For items like Request 19, where you've characterized "selection" and "adoption" of a mark as separate issues such that the request constitutes two subparts, it is clear that at least your initial interpretation of TBMP 405.03 is the same as ours, i.e., that while the rule clearly states "adoption" and "use" may be treated as separate issues (still arguable and dependent on context), "selection" and "adoption" should not be, for purposes of counting requests. Indeed, Blackhawk's own Request for Production No. 3 seeks "documents regarding Respondent's ***selection and adoption*** of Respondent's Mark." (emphasis added). You'll note we did not treat your Request as containing subparts and likewise our Request 19 does not contain subparts.

(TTABVUE #9, Ex. H; *see also* TTABVUE #9, Ex. P).

In conditioning its responses to Linq3's Discovery Requests on Linq3 agreeing with Petitioner's counting methodology, Petitioner is unfairly forcing Linq3 to apply a different standard to Linq's Discovery Requests than Petitioner applied to its own discovery requests. The Board need only compare page 11 of Petitioner's Opposition to Petitioner's own discovery requests to see the double standard on display. For instance, Petitioner relies on the underlined aspects of Request No. 40 to conclude that the request contains 6 subparts:

> All Materials concerning or identifying the customers to whom Petitioner, itself or through others, has in the past or currently, markets, distributes, promotes, and/or

> offers Petitioner's Goods and Services and/or to whom Petitioner intends to market, distribute, promote and/or offer Petitioner's Goods and Services.

(TTABVUE #11, page 11) (emphasis added). Petitioner treated the words "markets," "distributes," "promotes," and "offers" as directed to separate requests. Similarly, Petitioner relies on the underlined aspects of Interrogatory No. 12 of Linq3's Discovery Requests to conclude that the interrogatory contains 7 subparts:

> Identify and describe in detail all trademark searches, investigations, likelihood of confusion surveys, brand recognition surveys, brand impact surveys, connotation surveys, and/or dilution surveys conducted by Petitioner relative to Petitioner's Marks.

(TTABVUE #11, page 12). Again, Petitioner treated "trademark searches," "investigations," "brand recognition surveys," "brand impact surveys," connotation surveys," and "dilution surveys" as directed to separate requests. Yet, Petitioner' own Request for Production No. 18 reads:

> Produce the documents regarding the marketing and sales of Respondent's Goods and Services, such as plans, studies, or projections.

(TTABVUE #9, Ex. P). Applying Petitioner's methodology to this request would result in each of the underlined terms being a separate request for a total of five requests. Indeed, applying Petitioner's methodology to Petitioner's own requests would result in many of those requests being counted as multiple and not individual requests. (*See, e.g*, **Exhibit B**, a true and accurate copy of Petitioner's First Set of Interrogatories and TTABVUE #9, Ex. P (Interrogatory No. 14 which reads "[if] Respondent has discontinued the use of the Mark at any time, in connection with any of Respondent's Goods or Services, state the period of non-use, the reasons therefor, and the reasons for resuming use if any"), (Interrogatory No. 18 which reads "[d]escribe the role(s) of Daniel Cage, Bridget Cornelison, and Bond Courtney, if any, in the development and registration of Respondent's Mark, and the date of their participation"), (Document Request No. 17 which reads "[p]roduce documents sufficient to identify the amount of money expended and

budgeted by Respondent each calendar quarter to promote Respondent's Goods and Services in connection with Respondent's Mark from the claimed date of first use to present")).

Petitioner also finds fault in Linq3's Discovery Requests that "do not recite the 'including but not limited to' language" but which purportedly "still contain so many subparts that they exceed significantly the Board's 75-subpart limit." (TTABVUE #11, page 12). Yet, again, Petitioner had no trouble counting similar requests that it served on Linq3 as a single request.

For instance, as shown in Exhibit 1 to Petitioner's opposition brief, Linq3's Interrogatory No. 53 to Petitioner reads "For each of the foregoing Interrogatories, Identify all persons consulted in connection with investigating or collecting responsive Materials and/or drafting or preparing answers." Petitioner counted "investigating or collecting responsive Materials" and "drafting or preparing answers" as two separate requests. Yet Petitioner's Interrogatory No. 20 to Linq3 contains similar terminology:

> Other than counsel, identify those persons who supplied documents or information for, or who participated in responding to, these Interrogatories, Petitioner's First Request for Production of Documents and Things, and Petitioner's First Request for Admissions.

Notably, Petitioner did not count "persons who supplied documents or information" as a separate request from persons "who participated in responding to" each of Petitioner's three separate sets of discovery requests. Similarly, Petitioner counted Interrogatory No. 54 – which asks Petitioner to "[i]dentify all Materials consulted or relied upon in connection with drafting or preparing answers" – as two separate requests. Yet it had no issue counting as a single request, its own Interrogatory No. 8 to Linq3 which reads "[i]dentify the persons involved on behalf of Respondent in the negotiation, drafting, or execution of the PDA, and describe the role(s) of each such person regarding the PDA." (*See* **Exhibit B**.) Using Petitioner's methodology, Interrogatory No. 8 would be counted as at least four separate requests. Petitioner should not be

permitted to apply a different standard to Linq3's requests than it applied to its own requests.

Moreover, even Linq3's Discovery Requests that do not use the specific phrase "including but not limited to" nevertheless include exemplary language despite the absence of those words. For instance, Interrogatory No. 12 from Linq3's Discovery Requests reads:

> Identify and describe in detail all trademark searches, investigations, likelihood of confusion surveys, brand recognition surveys, brand impact surveys, connotation surveys, and/or dilution surveys conducted by Petitioner relative to Petitioner's Marks.

Petitioner counted each type of survey identified as a separate subpart (TTABVUE #11, Ex. 1). However, the exemplary language used in Interrogatory No. 12 is no different than if it had read "identify and describe in detail all surveys related to Petitioner's Marks, including but not limited to likelihood of confusion surveys, brand recognitions surveys, brand impact surveys, connotations surveys, and/or dilution surveys." Phrased this way, there is no question that the listing of surveys is exemplary and pertains to a common issue, *i.e.*, surveys performed to ascertain the absolute and relative strength of a trademark. The exemplary language simply further illustrates the types of surveys that should be included in a complete response.

D. Contrary to Petitioner's Statements, Registrant Has Set Forth A Methodology For Counting Linq3's Discovery Requests

Petitioner erroneously claims that Linq3 did not set forth a methodology for counting its Discovery Requests "either to Petitioner or to the Board in its Motion, as the TBMP counsels."(TTABVUE # 11, Pg. 9). In fact, however, per TBMP § 405.03(e), Linq3 dedicated two pages of its Motion to Compel explaining its methodology. Specifically, under the heading "Registrant's Methodology for Counting its Discovery Requests," Linq3 goes into detail as to the proper way to interpret and count its requests (54 Interrogatories and 54 Requests for Production), providing the same explanation to the Board as it provided to Petitioner, namely that the portions of Linq3's Discovery Requests that Petitioner counted as separate requests were

in fact presented simply to provide clarification as to what a complete response should include. Petitioner's claim that Linq3 failed to set forth any method for counting Linq3's Discovery Requests is baseless and contrary to the record, and should be afforded no consideration. In any event, Linq3's methodology does not require explanation. Linq3 simply separated and numbered its requests by common transactions, sets of facts, and issues, pursuant to the Board rules and accepted discovery practice.

WHEREFORE Registrant, Linq3 Technologies, LLC, respectfully requests that the Board enter an order directing Petitioner, Blackhawk Network Inc. to respond to Linq3's Discovery Requests fully and without objection.

Dated: August 18, 2021

Respectfully submitted,

DUANE MORRIS LLP

By: / *Christiane S. Campbell* /
Christiane S. Campbell

30 S. 17th Street
Philadelphia, PA 19103
CCampbell@duanemoris.com
RLMcGrath@duanemorris.com
LMatturri@duanemorris.com

Ph: 215-979-1817

Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2021 the foregoing Reply to Motion to Compel was served on the following by email:

Jordan S. Weinstein
Barnes & Thornburg, LLP
1717 Pennsylvania Avenue, N.W., Suite 500
Washington, D.C. 20006
Email: jweinstein@btlaw.com,
jfrick@btlaw.com,
dbondurant@btlaw.com,
docketingtm-dc@btlaw.com
Phone: 202-289-1313
Counsel for Petitioner, Blackhawk Network, Inc.

/***Christiane S. Campbell***/
Christiane S. Campbell

EXHIBIT A

Merriam-Webster

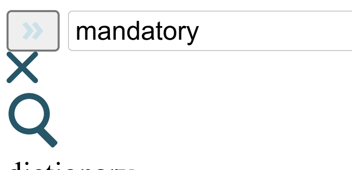
SINCE 1828

[GAMES & QUIZZES] [THESAURUS] [WORD OF THE DAY] [FEATURES]

- SHOP

Buying Guide M-W Books

- LOG IN
- REGISTER
- settings log out



- MY WORDSMY WORDS

mandatory

dictionary
thesaurus
view recents

Log in Sign Up
Hello,
Games & Quizzes Thesaurus Word of the Day Features Buying Guide M-W Books

- My WordsMy Words
- View Recents
- Account

Log Out

mandatory

adjective
Save Word

To save this word, you'll need to log in.

Log In
man·da·to·ry | \ ˈman-də-ˌtȯr-ē \

Definition of *mandatory*

(Entry 1 of 2)

1 **:** required by a law or rule **:** obligatory the mandatory retirement age
2 **:** of, by, relating to, or holding a League of Nations mandate

mandatory

noun
plural mandatories

Definition of *mandatory* (Entry 2 of 2)

: one given a mandate especially **:** a nation holding a mandate from the League of Nations

Other Words from *mandatory* Synonyms & Antonyms Did you know? More Example Sentences
Learn More About *mandatory*

Keep scrolling for more

Other Words from *mandatory*

Adjective

mandatorily \ ˈman-də-ˌtȯr-ə-lē \ adverb

Synonyms & Antonyms for *mandatory*

Synonyms: Adjective

- compulsory,
- forced,
- imperative,
- incumbent,
- involuntary,
- necessary,
- nonelective,
- obligatory,
- peremptory,
- required

Antonyms: Adjective

- elective,
- optional,
- voluntary

Visit the Thesaurus for More

Did you know?

Something mandatory is the result of a *mandate* or order, which usually comes in the form of a law, rule, or regulation. Today there seem to be a lot of these mandates, so mandatory seat belts, mandatory inspections for industries, and mandatory prison sentences for violent crimes are regularly in the news. But mandatory retirement at age 65, which used to be common, is now illegal in most cases.

Examples of *mandatory* in a Sentence

Adjective Parents object to the mandatory nature of the shots—and the fact that their child's access to education hinges on compliance with the immunization regulations. — Alice Park, *Time*, 2 June 2008 In a move some are

calling a "backdoor draft," the Pentagon has announced it will issue mandatory recalls to more than 5,600 Army troops for deployment to Iraq and Afghanistan. — Nathaniel Frank, *Washington Post*, 12 July 2004

See More

Recent Examples on the Web: Adjective The park is in the process of evacuating visitors in accordance with broader *mandatory* evacuations being carried out in the areas to the east and south. — Gregory Thomas, *San Francisco Chronicle*, 6 Aug. 2021 So far, big restaurants chains have not taken a stance on *mandatory* vaccinations due to risk of losing customers, says Mahmood Khan, a professor of hospitality and tourism management at Virginia Tech. — Michelle Cheng, *Quartz*, 5 Aug. 2021

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'mandatory.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. Send us feedback.

See More

First Known Use of *mandatory*

Adjective

15th century, in the meaning defined at sense 1

Noun

1661, in the meaning defined above

History and Etymology for *mandatory*

Adjective

see mandate entry 1

Noun

see mandate entry 1

Keep scrolling for more

Learn More About *mandatory*

Share *mandatory*

Post the Definition of mandatory to Facebook Share the Definition of mandatory on Twitter

Time Traveler for *mandatory*

The first known use of *mandatory* was in the 15th century

See more words from the same century

Dictionary Entries Near *mandatory*

mandator

mandatory

mandatum

See More Nearby Entries

Statistics for *mandatory*

Last Updated

9 Aug 2021

Look-up Popularity

Top 1% of words

Cite this Entry

“Mandatory.” *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/mandatory. Accessed 18 Aug. 2021.

Style: MLA
MLA Chicago APA Merriam-Webster

Keep scrolling for more

More Definitions for *mandatory*

mandatory

adjective

English Language Learners Definition of *mandatory*

: required by a law or rule

See the full definition for *mandatory* in the English Language Learners Dictionary

mandatory

adjective
man·da·tory | \ ˈman-də-ˌtȯr-ē \

Kids Definition of *mandatory*

: required by law or by a command Student attendance is *mandatory*.

mandatory

adjective

man·da·to·ry | \ ˈman-də-ˌtȯr-ē \

Legal Definition of *mandatory*

: containing or constituting a command **:** being obligatory

Other Words from *mandatory*

mandatorily \ -ˌtȯr-i-lē \ adverb

More from Merriam-Webster on *mandatory*

Nglish: Translation of *mandatory* for Spanish Speakers

Britannica English: Translation of *mandatory* for Arabic Speakers

WORD OF THE DAY

defenestration

See Definitions and Examples »

Get Word of the Day daily email!

Your email address SUBSCRIBE

Test Your Vocabulary

Difficult Spelling Words Quiz

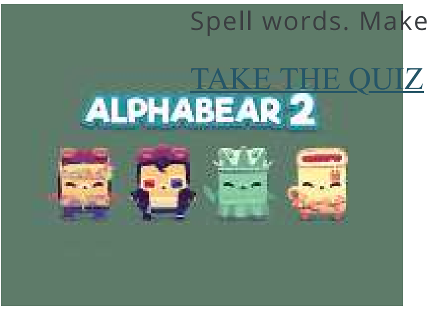
-
  - Which is the correct spelling?

acommodate | accommodate

accomodate | acommadate

Test your visual vocabulary with our 10-question challenge!

TAKE THE QUIZ



Spell words. Make bears.

TAKE THE QUIZ

Love words? Need even more definitions?

Subscribe to America's largest dictionary and get thousands more definitions and advanced search—ad free!

MERRIAM-WEBSTER UNABRIDGED

WORDS AT PLAY

- ## “In Vino Veritas” and Other Latin Phrases to Live By

  Top 10 Latin Phrases

- ## Do You 'Wreak' Havoc, or 'Wreck' It?

  Tidying up a chaotic situation

- ## The Words of the Week - 8/13/21

  From the week ending 8/13/2021

- ## Word Well Used: 'Endemicity'

  Courtesy of Ed Yong

ASK THE EDITORS

- ## 'Everyday' vs. 'Every Day'

  A simple trick to keep them separate

- ## What Is 'Semantic Bleaching'?

  How 'literally' can mean "figuratively"

- ## Literally

  How to use a word that (literally) drives some pe...

- ## Is Singular 'They' a Better Choice?

  The awkward case of 'his or her'

WORD GAMES

- ## Test Your Insult Skills

  Because “you stink” lacks style

  TAKE THE QUIZ

- ## People's Favorite Words

A five-star quiz

TAKE THE QUIZ

-

Name That Thing

Test your visual vocabulary with our 10-question ...

TAKE THE QUIZ

-

AlphaBear 2

AlphaBear 2

PLAY THE GAME

Learn a new word every day. Delivered to your inbox!

Your email address

OTHER MERRIAM-WEBSTER DICTIONARIES

- LEARNER'S ESL DICTIONARY
- VISUAL DICTIONARY
- SCRABBLE® WORD FINDER
- MERRIAM-WEBSTER'S UNABRIDGED DICTIONARY

- BRITANNICA ENGLISH - ARABIC TRANSLATION
- NGLISH - SPANISH-ENGLISH TRANSLATION

FOLLOW US

Browse the Dictionary: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z 0-9

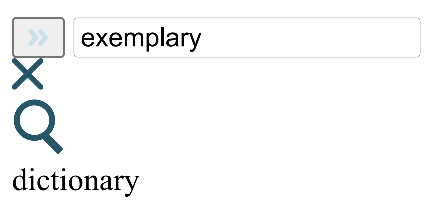
Home | Help | Apps | About Us | Shop | Advertising Info | Dictionary API | Contact Us | Join MWU | Videos | Word of the Year | Puku | Vocabulary Resources | Law Dictionary | Medical Dictionary | Privacy Policy | Terms of Use | Do Not Sell My Info

Browse the Thesaurus | Browse the Medical Dictionary | Browse the Legal Dictionary

© 2021 Merriam-Webster, Incorporated

Merriam-Webster

SINCE 1828



- MY WORDSMY WORDS

exemplary

dictionary
thesaurus

view recents

Log in Sign Up

Hello,

Games & Quizzes Thesaurus Word of the Day Features Buying Guide M-W Books

- My WordsMy Words
- View Recents
- Account

Log Out

exemplary

adjective

Save Word

To save this word, you'll need to log in.

Log In

ex·em·pla·ry | \ ig-ˈzem-plə-rē \

Definition of *exemplary*

1a **:** deserving imitation **:** commendable his courage was exemplary also **:** deserving imitation because of excellence they serve exemplary pastries — G. V. Higgins
b **:** serving as a pattern
2 **:** serving as an example, instance, or illustration this story is exemplary of her style
3 **:** serving as a warning **:** monitory given an exemplary punishment

Other Words from *exemplary* Synonyms An Exemplary Etymology More Example Sentences Learn More About *exemplary*

Keep scrolling for more

Other Words from *exemplary*

exemplarily \ ˌeg-ˌzem-ˈpler-ə-lē \ adverb
exemplariness \ ig-ˈzem-plə-rē-nəs \ noun
exemplarity \ ˌeg-ˌzem-ˈpler-ə-tē \ noun

Synonyms for *exemplary*

Synonyms

- archetypal
- (also archetypical),
- classic,
- definitive,
- imitable,
- model,
- paradigmatic,
- quintessential,
- textbook

Visit the Thesaurus for More

An Exemplary Etymology

Since the 1500s, *exemplary* has been used in English for things deserving imitation. The word (and its close relatives *example* and *exemplify*) derives from the Latin noun *exemplum*, which means "example." Usage commentators have sometimes warned against using *exemplary* as if it were simply a synonym of *excellent*, but clear-cut instances of such usage are hard to come by. When *exemplary* describes something excellent, as it often does, it almost always carries the further suggestion that the thing described is worthy of imitation.

Examples of *exemplary* in a Sentence

Each cantina has its own style, but almost all of them share several key traits: uniformed waiters offering exemplary service, a trio of musicians strolling from table to table playing songs on request, lots of men playing dominoes, plenty of good tequila and cold beer, and tasty home-cooked botanas (snacks) served free with each round of drinks. — Chris Humphrey, *National Geographic Traveler*, September 2008 A few Hollywood couples stayed hitched—Paul Newman and Joanne Woodward, 50 years and counting—but such exemplary marriages had less entertainment value than the connubial career of, say, Elizabeth Taylor, eight times wed and divorced, including two volatile turns with Richard Burton. — Richard Corliss, *Time*, 28 Jan. 2008
See More
Recent Examples on the Web Genetixs is seeking general, punitive and *exemplary* damages and injunctive relief. — Ben Arthur, *USA TODAY*, 28 July 2021 Neal Jordan's *exemplary* adaptation of Graham Greene's novel

preserves his emphasis on the teachings of the Roman Catholic Church and pours on the swoony romance, with Moore and Ralph Fiennes as an adulterous couple even death cannot separate. — Chris Hewitt, *Star Tribune*, 28 July 2021

These example sentences are selected automatically from various online news sources to reflect current usage of the word 'exemplary.' Views expressed in the examples do not represent the opinion of Merriam-Webster or its editors. Send us feedback.

See More

First Known Use of *exemplary*

circa 1507, in the meaning defined at sense 1b

History and Etymology for *exemplary*

see exemplar

Keep scrolling for more

Learn More About *exemplary*

Share *exemplary*

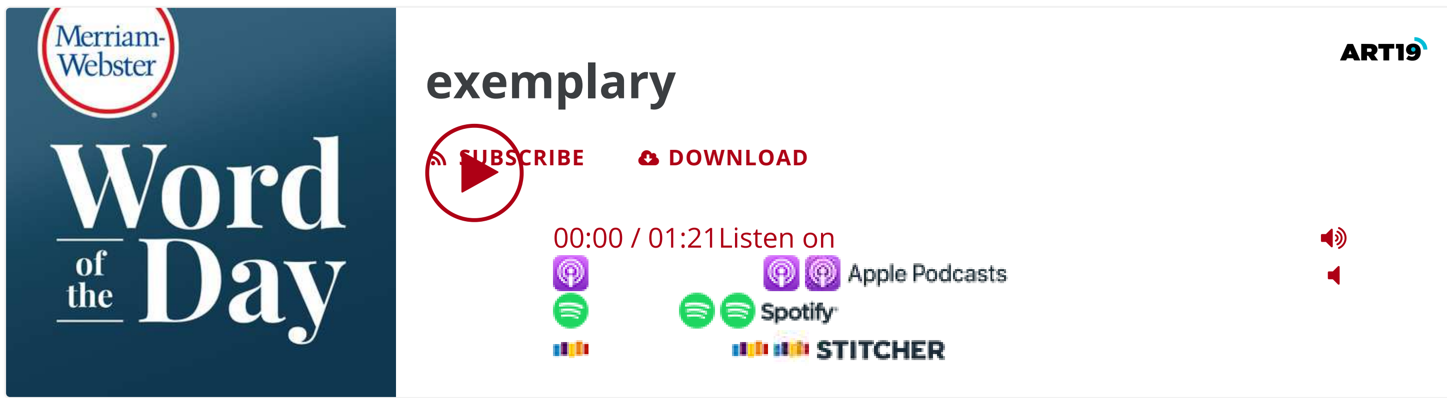
Post the Definition of exemplary to Facebook Share the Definition of exemplary on Twitter

Time Traveler for *exemplary*

The first known use of *exemplary* was circa 1507

See more words from the same year

Listen to Our Podcast About *exemplary*



Theme music by Joshua Stamper ©2006 New Jerusalem Music/ASCAP

Get Word of the Day delivered to your inbox!

Dictionary Entries Near *exemplary*

exemplarism

exemplary

exemplifiable

See More Nearby Entries

Statistics for *exemplary*

Last Updated

18 Aug 2021

Look-up Popularity

Top 1% of words

Cite this Entry

"Exemplary." *Merriam-Webster.com Dictionary*, Merriam-Webster, https://www.merriam-webster.com/dictionary/exemplary. Accessed 18 Aug. 2021.

Style: MLA
MLA Chicago APA Merriam-Webster

Keep scrolling for more

More Definitions for *exemplary*

exemplary

adjective

English Language Learners Definition of *exemplary*

: extremely good and deserving to be admired and copied
formal **:** serving as an example of something

See the full definition for *exemplary* in the English Language Learners Dictionary

More from Merriam-Webster on *exemplary*

Nglish: Translation of *exemplary* for Spanish Speakers

Britannica English: Translation of *exemplary* for Arabic Speakers

WORD OF THE DAY

defenestration

See Definitions and Examples »

Get Word of the Day daily email!

Your email address SUBSCRIBE

Test Your Vocabulary

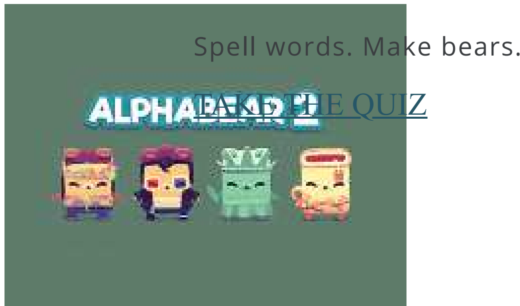
Difficult Spelling Words Quiz

-
  - Which is the correct spelling?

accomodate	acommadate
acommodate	accommodate

Test your visual vocabulary with our 10-question challenge!

TAKE THE QUIZ



Spell words. Make bears.

TAKE THE QUIZ

Love words? Need even more definitions?

Subscribe to America's largest dictionary and get thousands more definitions and advanced search—ad free!

MERRIAM-WEBSTER UNABRIDGED

WORDS AT PLAY

- **“In Vino Veritas” and Other Latin Phrases to Live By**

  Top 10 Latin Phrases

- **Do You 'Wreak' Havoc, or 'Wreck' It?**

  Tidying up a chaotic situation

- ### The Words of the Week - 8/13/21

  From the week ending 8/13/2021

- ### Word Well Used: 'Endemicity'

  Courtesy of Ed Yong

ASK THE EDITORS

- ### 'Everyday' vs. 'Every Day'

  A simple trick to keep them separate

- ### What Is 'Semantic Bleaching'?

  How 'literally' can mean "figuratively"

- ### Literally

How to use a word that (literally) drives some pe...

- ### Is Singular 'They' a Better Choice?

  The awkward case of 'his or her'

WORD GAMES

- ### Test Your Insult Skills

  Because “you stink” lacks style

  TAKE THE QUIZ

- ### People's Favorite Words

  A five-star quiz

  TAKE THE QUIZ

- ### Name That Thing

  Test your visual vocabulary with our 10-question ...

  TAKE THE QUIZ

-

AlphaBear 2

AlphaBear 2

PLAY THE GAME

Learn a new word every day. Delivered to your inbox!

Your email address

OTHER MERRIAM-WEBSTER DICTIONARIES

- LEARNER'S ESL DICTIONARY
- VISUAL DICTIONARY
- SCRABBLE® WORD FINDER
- MERRIAM-WEBSTER'S UNABRIDGED DICTIONARY
- BRITANNICA ENGLISH - ARABIC TRANSLATION
- NGLISH - SPANISH-ENGLISH TRANSLATION

FOLLOW US

Browse the Dictionary: A B C D E F G H I J K L M N O P Q R S T U V W X Y Z 0-9

Home | Help | Apps | About Us | Shop | Advertising Info | Dictionary API | Contact Us | Join MWU | Videos | Word of the Year | Puku | Vocabulary Resources | Law Dictionary | Medical Dictionary | Privacy Policy | Terms of Use | Do Not Sell My Info

Browse the Thesaurus | Browse the Medical Dictionary | Browse the Legal Dictionary

© 2021 Merriam-Webster, Incorporated

EXHIBIT B

Attorney Docket No.: 60656-293752 TTAB FEE

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

BLACKHAWK NETWORK, INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No.: 92075865
v.	)	Registration No.: 5,991,863
	)	Mark: QUICKTICKET
LINQ3 TECHNOLOGIES, LLC,	)	
	)	
Respondent.	)	
	)	

PETITIONER'S FIRST SET OF INTERROGATORIES

Petitioner, BLACKHAWK NETWORK, INC., serves the following interrogatories under Rule 33, Fed.R.Civ.P., and Trademark Rules 2.116(a) and 2.120(d)(1), to be answered separately and fully in writing under oath by an officer or agent of Respondent, LINQ3 TECHNOLOGIES, LLC. Each separately numbered or lettered sub-part of each interrogatory requires a separate answer thereto. Furthermore, these interrogatories shall be deemed to be continuing to the fullest extent permitted by the Rules and Respondent shall provide Petitioner with any supplemental answers and additional information which become available to Respondent at a later date.

DEFINITIONS AND INSTRUCTIONS

A. The term "Petitioner" or "Blackhawk" refers to Blackhawk Network, Inc., its subsidiaries, affiliated companies, any predecessors or successors in interest, any persons who are, or at any time to which these Interrogatories or Requests relate were, controlled by or otherwise acting on behalf of the foregoing, the present or former officers, directors, partners, employees, agents, and representatives of any of the foregoing.

B. The term "Petitioner's Services" shall mean rendering in commerce services that

enable the purchase of lottery entries and the issuance of lottery receipts at retail checkout registers.

C. The term "Petitioner's Applications" shall mean U.S. Application Serial Numbers 88/082,135 and 88/438,239, as pleaded in the Amended Petition for Cancellation. To the extent Respondent's answer differs as to the applications, Respondent shall specify to which serial number its answer applies.

D. The term "Respondent" or "Registrant" refers to Linq3 Technologies, LLC, its subsidiaries, affiliated companies, any predecessors or successors in interest, in part or in whole, any persons who are, or at any time to which these Interrogatories or Requests relate were, controlled by or otherwise acting on behalf of the foregoing, the present or former officers, directors, partners, employees, agents, and representatives of any of the foregoing.

E. As used herein, "Respondent's Application" shall mean U.S. Application Serial No. 87/953,104, which was filed on June 7, 2018.

F. As used herein, "Respondent's Registration" shall mean U.S. Registration No. 5,991,863 for the QUICKTICKET mark.

G. As used herein, the "Agreement" or "PDA" shall mean the Product Distribution Agreementreferenced in Par. 6 of the Amended Petition for Cancellation.

H. The term "Hilsabeck Declaration" shall mean the June 21, 2018 declaration of Jennifer Hilsabeck, in-house counsel for Respondent's predecessor, that was filed with the PTO on June 27, 2018 by Respondent's predecessor as part of the prosecution of Respondent's Application.

I. The term "Respondent's "Goods" shall mean non-magnetically encoded cards for participating in a lottery, sold in connection with Respondent's Mark.

J. The term "Respondent's Services" shall mean administration of lotteries for others; facilitating lottery play and placement of lottery wagers for others, namely, lottery services , rendered in connection with Respondent's Mark.

K. The term Respondent's "Goods and Services" shall mean Respondent's Goods and Respondent's Services.

L. The "Mark" shall mean the words "QUICKTICKET" in any form, font, likeness, or depiction.

M. The term "Parties" shall mean the Petitioner and the Respondent.

N. The term "person" or "persons" refers to natural persons, limited liability companies, partnerships, corporations, and any other form of business entity including, without limitation, firms, ventures and associations and shall include divisions, departments, subsidiaries, directors, officers, owners, members, employees, agents, attorneys, or anyone else acting on the person's or entity's behalf.

O. "State" or "state all facts" means to state all facts discoverable under Rule 26(b), Federal Rules of Civil Procedure that are known to Respondent. When used in reference to a contention, "state," "state all facts," "identify," "identify all documents," and "identify all communications" shall include all facts, documents, and communications negating as well as supporting the contention. When used in reference to a contention, "identify each person" shall include persons having knowledge of facts negating, as well as supporting, the contention.

P. The term "regarding" means relating or referring to, incorporating, comprising, touching upon, indicating, evidencing, affirming, denying, concerned with, relevant to, or likely to lead to admissible evidence.

Q. The term "each" includes "each" and "every."

R. The term “and/or” is to be read in both the conjunctive and disjunctive and shall serve as a request for information that would be responsive under a conjunctive reading in addition to all information that would be responsive under a disjunctive reading.

S. Wherever Respondent is requested to “identify” or to state the identity of a natural person, please state, as to such person, the following information:

1. full name; and
2. present or last known address, business title and telephone number.

T. Wherever Respondent is requested to “identify” or state the identity of a person other than a natural person, please state the following concerning such entity:

1. its full, legal name;
2. its form of organization; and
3. its address and principal place of business.

U. The term “document” shall be construed in its broadest sense, and shall include any and all means of conveying, storing, or memorializing information, whether in paper or other tangible physical form, or in electronic form, in the possession, custody, or control of Respondent. Each revision, comment, addition, or deletion to a document shall constitute a separate document.

V. Wherever Respondent is requested to “identify” or to state the identity of a document, please state, as to each such document, the following information:

1. its date;
2. the type of document;
3. its title and/or all identifying numbers or other identifying or categorizing designations and, if not apparent in the title, a brief description of the general nature and subject matter;

4. the identity of each author, signatory or preparer;

5. the identity of each addressee and each other person receiving a copy thereof;

6. its present or last known location, and the name and address of its present custodian;

7. if the document is not an original, the name and address of the custodian of the original document;

8. its file name and data format, where applicable; and

9. any other designation necessary to sufficiently identify the document, file or location so that a copy thereof may be ordered, obtained or subpoenaed from the custodian thereof.

In the alternative, Respondent may produce the document(s) for inspection and copying at the offices of Barnes & Thornburg, LLP, 1717 Pennsylvania Avenue N.W., Suite 500, Washington, DC 20006.

W. If Respondent refuses to identify and/or produce any document or electronically stored information based upon a claim of confidentiality, privilege, or work product immunity, Respondent shall, in log form, (i) identify each document or electronically stored information by its author, intended recipient, the date of the document or electronically stored information, and its general subject matter, and (ii) for each withheld document or electronically stored information set forth the particular basis for the refusal of production.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the documents regarding Respondent's Mark and/or Respondent's Registration, which were not received by Respondent from Respondent's predecessor.

INTERROGATORY NO. 2:

Identify each individual who participated in the development of Respondent's Mark, explain their role in the development, and the date(s) of their participation.

INTERROGATORY NO. 3:

Identify the classes of customers to whom Respondent promotes and renders Respondent's Products and/or Services.

INTERROGATORY NO. 4:

Describe how Respondent promotes Respondent's Products and Services.

INTERROGATORY NO. 5:

To the extent any person other than Respondent promotes Respondent's Goods or Services, identify each such person and describe their promotional responsibilities.

INTERROGATORY NO. 6:

Describe Jennifer Hilsabeck's role, if any, in Respondent's development and registration of the Mark.

INTERROGATORY NO. 7:

Identify the person who signed the Statement of Use filed in Respondent's Application.

INTERROGATORY NO. 8:

Identify the persons involved on behalf of Respondent in the negotiation, drafting, or execution of the PDA, and describe the role(s) of each such person regarding the PDA.

INTERROGATORY NO. 9:

Identify who first learned of Petitioner's use and/or disclosure of the Mark on behalf of Respondent, including how and when.

INTERROGATORY NO. 10:

State the date of any promotion(s) by Respondent to any person that later procured Respondent's Products and/or Services.

INTERROGATORY NO. 11:

State the date of first use in commerce for each of Respondent's Products and Services.

INTERROGATORY NO. 12:

Provide the date and describe the circumstance of Respondent's first sale in commerce of each of Respondent's Products and Services.

INTERROGATORY NO. 13:

Explain the meaning and connotation, if any, of Respondent's Mark.

INTERROGATORY NO. 14:

If Respondent has discontinued the use of the Mark at any time, in connection with any of Respondent's Goods or Services, state the period of non-use, the reasons therefor, and the reasons for resuming use if any.

INTERROGATORY NO. 15:

Identify the geographic region(s) in the United States where Respondent's Goods and/or Services are marketed and sold.

INTERROGATORY NO. 16:

Identify and describe in detail all facts relating to any instances in which a person has been, or may have been, confused, mistaken, or deceived as to the source of Respondent's Products and/or Services offered under or by reference to Respondent's Mark.

INTERROGATORY NO. 17:

Describe the factual bases for Respondent's Affirmative Defenses.

INTERROGATORY NO. 18:

Describe the role(s) of Daniel Cage, Bridget Cornelison, and Bond Courtney, if any, in the development and registration of Respondent's Mark, and the date of their participation.

INTERROGATORY NO. 19:

State the facts supporting Respondent's denial of the allegations of Para. 15 of the Amended Petition for Cancellation.

INTERROGATORY NO. 20:

Other than counsel, identify those persons who supplied documents or information for, or who participated in responding to, these Interrogatories, Petitioner's First Request for Production of Documents and Things, and Petitioner's First Request for Admissions.

Respectfully submitted,

Blackhawk Network, Inc.

/jsw/

By: ________________________________

Jordan S. Weinstein, Esquire
Barnes & Thornburg LLP
1717 Pennsylvania Avenue, N.W.
Suite 500
Washington, D.C. 20006
Phone: (202) 289-1313
Fax: (202) 289-1330
Docketingtm-dc@btlaw.com;
jweinstein@btlaw.com

Joshua S. Frick, Esquire
Barnes & Thornburg LLP
One North Wacker Drive
Suite 4400
Chicago, IL. 60606-2833
Phone: (312) 357-1313
Fax: (312) 759-5646
jfrick@btlaw.com

Date: April 7, 2021

Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to Trademark Rule 2.119(a), I hereby certify that a true copy of the foregoing **PETITIONER'S FIRST SET OF INTERROGATORIES TO RESPONDENT** was served on counsel for Respondent, this 7th day of April, 2021, by sending same via e-mail to:

Christiane S. Campbell
DUANE MORRIS LLP
ccampbell@duanemorris.com
RLMcGrath@duanemorris.com
Lmatturri@duanemorris.com
IDocketing@duanemorris.com

/jsw/

Jordan S. Weinstein