

ESTTA Tracking number: **ESTTA1314365**Filing date: **10/05/2023**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	92080626
Party	Defendant Peregrine Automotive, LLC
Correspondence address	MARC E. HANKIN HANKIN PATENT LAW, APC 12400 WILSHIRE BLVD. SUITE 1265 LOS ANGELES, CA 90025 UNITED STATES Primary email: courtfiling@hankinpatentlaw.com Secondary email(s): marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, amyb@hankinpatentlaw.com 310-979-3600
Submission	Reply in Support of Motion
Filer's name	Marc E. Hankin
Filer's email	courtfiling@hankinpatentlaw.com, marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, amyb@hankinpatentlaw.com
Signature	/Marc E. Hankin/
Date	10/05/2023
Attachments	Revenge - Registrant Reply ISO Motion to Compel.pdf(1169267 bytes)

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

Petitioner, California Wheel
Distributor, Inc.

v.

Respondent, Peregrine Automotive,
LLC.

Cancellation No. 92080626

Registration No. 5573560

Mark: REVENGE AUTO PARTS

REGISTRANT’S REPLY IN SUPPORT OF MOTION TO COMPEL

Registrant Peregrine Automotive, LLC (“Registrant”) hereby submits its Reply in Support of its Motion to Compel (“Motion”) Petitioner California Wheel Distributor, Inc.’s (“Petitioner”) responses to Registrant’s Interrogatories, Set One, and Requests for Production of Documents, Set One.

I. The Unopposed Motion Should Be Granted to Compel Petitioner’s Compliance.

Petitioner chose not to file a response to Registrant’s Motion. Instead, less than two hours before its midnight filing deadline on October 2, 2023, Petitioner’s counsel

belatedly served on Registrant's counsel documents labeled as "responses and objections" to the subject discovery requests. (Burke Decl. ¶¶ 2-4, Ex. A-C) Petitioner provided no explanation whatsoever for its thirty-three day delay in complying with its obligations to respond to Registrant's discovery requests, nor for its abject failure to comply with Petitioner's counsel's assurances, given in early September 2023, that complete written responses and a full document production would be forthcoming shortly (and, yet, not a single page of document(s) has been produced at all).

Moreover, the "responses and objections" are grossly inadequate and are tantamount to a complete failure to respond.¹ Petitioner's incomplete and inadequate Interrogatory "Responses" are not Verified by Petitioner as required by Fed. R. Civ. P. 33(b)(5). (Burke Decl. ¶3, Ex. B) Each Interrogatory is not answered separately and fully in writing under oath as required by Fed. R. Civ. P. 33(b)(3). *Id.*

Petitioner's "Responses" to Registrant's Requests for Production state that Petitioner "will produce" documents, but to date, Petitioner still has not produced even a single page of a single document. (Burke Decl. ¶4, Ex. C) Several Responses do indicate that documents will be produced "to the extent that they exist and can be located after a reasonable search," which reveals that Petitioner still has not searched for responsive documents more than two months after the Requests were served. *Id.* (e.g., Ex. C, p. 6)

¹ Although Petitioner served documents identified as "responses and objections" to the subject requests, Registrant's Motion is not moot under 37 C.F.R. § 2.120(f). Registrant continues to seek the relief it initially requested, as Petitioner's purported responses are little more than a delay tactic, and do not contain any actual "discovery."

Petitioner's discovery Responses are also replete with Objections that go to the merits of Registrant's Requests. However, Petitioner waived its right to object to these requests on their merits when it failed to serve responses timely, obtain an extension, or make any attempt to establish that its delay was the result of excusable neglect. *See* TBMP §§ 405.04(a), 406.04(a). There is no good cause for Petitioner's delay.

II. Petitioner Has Forfeited Its Right to Object to the Requests on Their Merits.

If a party fails to respond to discovery requests in a timely manner, and the failure is not due to excusable neglect, the Board has broad discretion to find that the party has forfeited its right to object to the requests on their merits. T.B.M.P. § 403.03; *No Fear Inc. v. Rule*, 54 USPQ2d 1551, 1554 (TTAB 2000); *Cadbury UK Ltd. v. Meenaxi Enterprises, Inc.*, 115 USPQ2d 1404, 1408 n.7 (TTAB 2015).

Here, Petitioner's conduct constitutes flagrant violation of the Trademark Rules and the Federal Rules of Civil Procedure. 37 C.F.R. § 2.120(a)(3); Fed. R. Civ. P. 33(b)(2); Fed. R. Civ. P. 34(b)(2)(A). Petitioner's last-minute service of incomplete and improper written responses reveals that the delay was not due to any excusable neglect, but rather that Petitioner simply decided to wait until the penultimate hour to make a token gesture of compliance with its obligations.

This is a quintessential example of circumstances in which the Board can, and should, exercise its discretion to enforce the rules that govern proceedings before it. These rules are not self-actuating, and they cannot be ignored. Petitioner's stonewalling, obfuscation, and delay is reprehensible. If Petitioner is not prohibited from objecting to

the merits of the subject discovery requests, then Petitioner and its counsel will have no incentive to comply with the applicable rules (nor will any other Petitioner in any other proceeding before the Board). The Board should issue an order that creates accountability for Petitioner's conduct and that allows Registrant to obtain the information and documents that it has sought through its discovery requests, which were properly served, and about which Registrant timely complained when Petitioner failed to respond fully on a timely basis. The Board should make it clear to Petitioner (and to all other parties in all other proceedings before the Board) that the Federal Rules are not "suggestions" or "optional" but, rather, need to be complied with, or else serious sanctions will result. How else, indeed, can proceedings move forward without the need to constantly run to the Board for relief each and every time some lawyer decides that compliance with the Federal Rules is simply inconvenient? If there is no consequence to them or their client for failing to comply, they will simply "blow it off" until they feel good and ready to comply voluntarily.

III. Registrant's Requested Relief Should Be Granted.

Registrant respectfully requests that the Board issue an order that compels Petitioner to serve its written responses to Registrant's Interrogatories, Set One and Registrant's Requests for Production, Set One, as well as all documents that are responsive to Registrant's Requests for Production, Set One, within fifteen (15) days of the issuance of the Order. Registrant further requests that the Board make a determination that Petitioner

has forfeited its right to withhold any information or document(s) on the basis of its long-overdue objections to such requests on their merits.

Dated: October 5, 2023

By: *Marc E. Hankin*

Marc E. Hankin
Attorney for Registrant, Peregrine
Automotive LLC

HANKIN PATENT LAW, APC
12400 Wilshire Boulevard, Suite 1265
Los Angeles, CA 90025
Telephone: (310) 979-3600
Email: marc@hankinpatentlaw.com

Declaration of Amy E. Burke

I, Amy E. Burke, declare as follows:

1. I am a Partner with Hankin Patent Law, APC, counsel of record for Registrant Peregrine Automotive LLC (“Registrant”) in this proceeding. I make this declaration based on my personal knowledge.
2. On October 2, 2023, at 10:12 pm Eastern time, I received an email from counsel for Petitioner California Wheel Distributor, Inc. (“Petitioner”) transmitting service copies of Petitioner’s Objections and Responses to Registrant’s Interrogatories, Set One and Requests for Production of Documents, Set One. A true and correct copy of Petitioner’s email is attached hereto as Exhibit A.
3. A true and correct copy of Petitioner’s Objections and Responses to Registrant’s Interrogatories, Set One, served on October 2, 2023, is attached hereto as Exhibit B.
4. A true and correct copy of Petitioner’s Objections and Responses to Registrant’s Requests for Production of Documents, Set One, served on October 2, 2023, is attached hereto as Exhibit C. To date, Petitioner has not served a single page of responsive documents.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Santa Barbara, California on October 5, 2023.

By: /Amy E. Burke/
Amy E. Burke

EXHIBIT A

From: [Lina Asmar](#)
To: [Amy Burke](#)
Cc: [Marc E. Hankin](#); [Court Filing](#)
Subject: Re: California Wheel Distributor, Inc. v. Peregrine Automotive, LLC, TTAB Cancellation No. 92080626
Date: Monday, October 2, 2023 7:12:06 PM
Attachments: [Outlook-z3srwwgd.png](#)
[PETITIONRE'S RESPONSES AND OBJECTIONS TO RESPONDENT'S INTERROGATORIES TO PETITIONER, SET ONE \[1-18\] 10-2-23.pdf](#)
[PETITIONRE'S RESPONSES AND OBJECTIONS TO RESPONDENT'S PRODUCTION OF DOCUMENTS TO PETITIONER, SET ONE \[1-16\].pdf](#)

Hi Amy,

Please see the attached.

Lina

Best regards,

Lina A. Asmar, Esq.



L.A. LAW, PLLC

Legal Counsel You Can Trust

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From: Amy Burke <AmyB@hankinpatentlaw.com>
Sent: Tuesday, September 12, 2023 12:24 PM
To: Lina Asmar <lasmar@lalawusa.com>
Cc: Marc E. Hankin <Marc@hankinpatentlaw.com>; Court Filing <courtfilling@hankinpatentlaw.com>
Subject: California Wheel Distributor, Inc. v. Peregrine Automotive, LLC, TTAB Cancellation No. 92080626

Dear Lina,

A service copy of Registrant's Motion to Compel is attached.

Regards,

Amy

Amy E. Burke, Esq.
Hankin Patent Law, APC
12400 Wilshire Blvd. Suite 1265
Los Angeles, CA 90025
Office: 310-979-3600
Mobile: 415-699-9901

EXHIBIT B

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

California Wheel Distributor Inc.,

Petitioner,

v.

Peregrine Automotive, LLC,

Respondent.

Cancellation No. 92080626

Registration No. 5,573,560

For Trademark: REVENGE AUTO PARTS

Interlocutory Attorney: WILLIAM D JACKSON

L.A. LAW, PLLC

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Attorney for Petitioner

HANKIN PATENT LAW APC

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marc@hankinpatentlaw.com
kevin@hankinpatentlaw.com
amyb@hankinpatentlaw.com

Attorneys for Respondent

**PETITIONER'S RESPONSES AND OBJECTIONS TO RESPONDENT'S
INTERROGATORIES TO PETITIONER, SET ONE (1-18)**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, California Wheel Distributor Inc. ("Petitioner"), by and through its attorney, hereby serves its responses and objections to the Peregrine Automotive, LLC's ("Respondent") Interrogatories to Petitioner, set one (1-18).

PRELIMINARY STATEMENT

These responses are made solely for the purpose of and in relation to this matter. Petitioner has not fully completed its investigation, discovery, analysis, legal research, and preparation for trial in this matter. The responses contained herein are based only upon the information and

documentation that is presently available and known to Petitioner, and which has been identified as containing relevant information. It is possible that further investigation, discovery, analysis, legal research, and/or preparation may result in the ascertainment of additional information or documentation, or provide additional meaning to known factual conclusions and legal contentions, all of which may result in modification of these responses. Accordingly, Petitioner reserves the right, but does not assume the obligation, to modify its responses herein based upon subsequently ascertained, identified, or developed information, facts and contentions.

No incidental or implied admissions are intended by the responses herein. The fact that Petitioner has supplied, or hereafter supplies, information in response to any particular interrogatory should not be taken as an admission that Petitioner accepts or admits the existence of any fact set forth or assumed by such interrogatory or that such information constitutes admissible evidence. The fact that Petitioner has supplied or hereafter supplies information in response to any interrogatory is not intended, and shall not be construed, as a waiver by Petitioner of any part of any objection to any such interrogatory. The fact that Petitioner makes a response and/or objection to any interrogatory is not intended, and shall not be construed, as an admission that information responsive to that interrogatory exists.

Subject to the objections asserted herein, Petitioner's responses are made in a good faith effort to reasonably respond to the interrogatories based upon presently available information and documentation. These responses are provided without prejudice to Petitioner's rights to conduct further investigation, discovery, analysis, legal research and/or preparation, and shall not limit Petitioner's right to utilize any additional evidence or documents that may be identified, discovered, or developed.

Specific objections to each separate interrogatory are made on an individual basis in Petitioner's responses below. In addition to the specific objections, Petitioner makes certain general and continuing objections as well as objections to the definitions and instructions ("General Objections") to all of the interrogatories. These General Objections are hereby incorporated by reference into the responses made to each interrogatory. Petitioner's response to each individual interrogatory is submitted without prejudice to, and without waiving in any respect, any General Objections not expressly set forth in that response. Accordingly, the inclusion of any specific objection to an interrogatory in any response below is neither intended as, nor in any way shall be deemed to be, a waiver of any General Objections or any other specific objection made herein or that may be asserted at a later date. In addition, the failure to include at this time any general or specific objection to an interrogatory is neither intended as, nor shall in any way be deemed, a waiver of Petitioner's rights to assert that or any other objection at a later date.

GENERAL OBJECTIONS

1. Petitioner objects to any directions, definitions, and instructions contained in Respondent's interrogatories that seek to impose any obligation or responsibilities other than the requirements mandated by the Federal Rules of Civil Procedure ("Federal Rules").

2. Petitioner objects to Respondent's interrogatories to the extent that they seek information not within Petitioner's possession, custody or control.

3. Petitioner objects to each and every interrogatory to the extent that it seeks production of documents or information containing communications or other matters protected from disclosure by the attorney-client privilege, the work product doctrine, Rule 408 of the Federal Rules of Evidence, Rule 26(b)(4) of the Federal Rules, or any other applicable privileges, doctrines or immunities (hereafter, "Privileged Information"). Any undertaking to produce documents or

provide information should be understood to exclude all Privileged Information. Petitioner specifically reserves the right to demand the return of any documents or information that may be produced inadvertently during discovery if Petitioner determines that such documents or information contain Privileged Information. Any inadvertent production of documents or information containing Privileged Information shall not be deemed to be a waiver of the aforementioned privileges (“Privilege” or “Privileged”). Petitioner also objects to the interrogatories themselves to the extent they appear to seek information protected by the work product privilege.

4. Petitioner objects to Respondent’s interrogatories to the extent that they are duplicative of Petitioner’s document requests.

5. As set forth more fully below, Petitioner objects to Respondent’s interrogatories and to the “Definition of Terms” provided with those interrogatories to the extent that they are vague, ambiguous, and unclear.

6. Petitioner objects to Respondent’s interrogatories to the extent they seek documents or information already in the possession, custody or control of Respondent, or that are available to Respondent from public sources.

7. Petitioner objects to Respondent’s interrogatories as overly broad and unduly burdensome to the extent it seeks information or documents that are not relevant to any party’s claim or defense, and/or not reasonably calculated to lead to the discovery of admissible evidence, and/or outside the scope of discovery as defined by Federal Rule 26.

8. Petitioner objects to Respondent’s interrogatories to the extent they seek discovery of confidential, proprietary or sensitive information that is not relevant to the issues in this case and is requested as a means of harassment to Petitioner and its business.

9. Petitioner objects to Respondent's requests to the extent that they seek a legal conclusion or the opinion of an expert, neither of which Petitioner is qualified to respond to. Petitioner further objects to Respondent's requests to the extent that they seek to circumvent the requirements of the Federal Rules and/or any scheduling order in this Cancellation.

10. Petitioner objects to the disclosure of any information or to the production of any documents that are confidential or proprietary.

OBJECTIONS TO DEFINITION OF TERMS

1. Petitioner objects to Respondent's Definition of the terms "PETITIONER," "YOU," "YOUR" on the basis that they are overly broad. Petitioner defines such terms as only referring to Petitioner, the entity named in this Proceeding and served with Respondent's interrogatories.

2. Petitioner objects to Respondent's definition of the term "DOCUMENT" to the extent that it exceeds the scope of Federal Rules of Civil Procedure 26 and 34. Petitioner will respond in accordance with the Federal Rules and any order of the TTAB.

Subject to and without waiving any of the above-referenced General Objections and Objections to Definition of Terms, and incorporating each of them as to each interrogatory by this reference, Petitioner responds to each interrogatory as follows:

INTERROGATORIES

INTERROGATORY NO. 1.

State all facts that support Your contention in Paragraph 2 of the Petition for Cancellation that Registrant is not using Registrant's Mark properly in interstate commerce.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, oppressive, excessively time consuming, and ambiguous and to the extent that it requests information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege. Petitioner also objects to this Interrogatory to the extent that it seeks information already in Respondent's possession or control or that is publicly available, and thus equally accessible to Respondent.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Respondent did not offer its services online or at a retail store and it did not have a website in existence when the Petitioner for Cancellation was filed on 09/22/2022. Respondent's purported rights to the mark REVENGE AUTO PARTS for "On-line wholesale and retail store services featuring auto parts" even though Respondent knows that it intentionally ceased providing such services in commerce since 2017. In addition, even though Respondent knew that it was no longer offering its services under the REVENGE AUTO PARTS mark in commerce, it continued to have its trademark registration for REVENGE AUTO PARTS with the United States Patent and Trademark Office ("USPTO") showing that it was still using the mark in commerce. In addition, Respondent's domain: revenge-auto-parts.com was not connected to a website when this Cancellation proceedings was filed on 09/22/2022. In fact, the only brief existence of Respondent's purported services was on eBay. Further REVENGE AUTO PARTS on eBay does not seem to be in existence as of the date of responses to these discovery requests. However, when Petitioner initiated this Cancellation proceedings, the eBay account seemed to align with the specimen submitted with Respondent's Application Ser. No. 87/676,067 for REVENGE AUTO PARTS. This application only demonstrated an appearance of Respondent's purported services in 2017. The same applies to Respondent's Instagram

“revengeautoparts” account, which displayed two product listings on eBay in August of 2017, and one product listing in September 2017, but there has been no mention or listing on eBay of any product on Instagram since 09/13/2017. Petitioner will also produce all non-privileged documents identified in this response. Discovery is continuing and Petitioner reserves the right to supplement its responses herein.

INTERROGATORY NO. 2.

Identify all Persons with knowledge of the facts supporting Your contention in Paragraph 2 of the Petition for Cancellation that Registrant is not using Registrant’s Mark properly in interstate commerce.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, oppressive, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Petitioner also objects to this Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Eugenia Muro.

INTERROGATORY NO. 3.

Identify all Documents that support Your contention in Paragraph 2 of the Petition for Cancellation that Registrant is not currently using Registrant’s Mark properly in interstate commerce.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 1 above.

INTERROGATORY NO. 4.

State all facts that support Your contention in Paragraph 3 of the Petition for Cancellation that Registrant has abandoned Registrant's Mark.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 1 above.

INTERROGATORY NO. 5.

Identify all Persons with knowledge of the facts supporting Your contention in Paragraph 3 of the Petition for Cancellation that Registrant has abandoned Registrant's Mark.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 2 above.

INTERROGATORY NO. 6.

Identify all Documents that support Your contention in Paragraph 3 of the Petition for Cancellation that Registrant has abandoned Registrant's Mark.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 1 above.

INTERROGATORY NO. 7.

State all facts that support Your contention in Paragraph 4 of the Petition for Cancellation that Registrant is not currently using Registrant's Mark in association with all the listed services in Registrant's registration.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 1 above.

INTERROGATORY NO. 8.

Identify all Persons with knowledge of the facts supporting Your contention in Paragraph 4 of the Petition for Cancellation that Registrant is not currently using Registrant's Mark in association with all the listed services in Registrant's registration.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 2 above.

INTERROGATORY NO. 9.

Identify all Documents that support Your contention in Paragraph 4 of the Petition for Cancellation that Registrant is not currently using Registrant's Mark in association with all the listed services in Registrant's registration.

ANSWER:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Answer No. 1 above.

INTERROGATORY NO. 10

State all facts pertaining to Your first sale of “Wheel disks for vehicles” bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark displayed in Your Trademark Application No. 90/403,196.” to mean the “use in commerce” of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner’s confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner’s use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 11.

State all facts pertaining to Your first sale of “Wheel rims” bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark displayed in Your Trademark Application No. 90/403,196.” to mean the “use in commerce” of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner’s confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner’s use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 12.

State all facts pertaining to Your first sale of “Wheels” bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark displayed in Your Trademark Application No. 90/403,196.” to mean the “use in commerce” of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner’s confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner’s use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 13

State all facts pertaining to Your first sale of “Vehicle wheel rims and structural parts therefore” bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark

displayed in Your Trademark Application No. 90/403,196.” to mean the “use in commerce” of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner’s confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner’s use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 14

State all facts pertaining to Your first sale of “Vehicle wheel spokes” bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark displayed in Your Trademark Application No. 90/403,196.” to mean the “use in commerce” of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to

this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner's use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 15

State all facts pertaining to Your first sale of "Vehicle wheels" bearing the mark displayed in Your Trademark Application No. 90/403,196.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. In addition, Petitioner interprets the phrase bearing the mark "displayed in Your Trademark Application No. 90/403,196." to mean the "use in commerce" of the mark as defined in Section 45 of the Trademark Act, 15 U.S.C. § 1127. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request

on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner has marketed and sold, and intends to market and sell, its goods as identified its Trademark Application No. 90/403,196. Petitioner first used its mark in the commerce in 2021. Petitioner thus objects to this Interrogatory on the grounds that it calls for information, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner's use of its Mark since it applied to register it under an intent-to-use basis.

INTERROGATORY NO. 16

State all facts relating to Your selection of the mark "Revenge" for use with goods in Class 012.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to this Interrogatory on the ground that it is vague and ambiguous, particularly as to the term "Selection." Petitioner also objects to the Interrogatory on the ground that it is not limited to product. Petitioner also objects to this Interrogatory to the extent it seeks information containing Petitioner's confidential and proprietary business information. Petitioner also objects to this Interrogatory on the ground that it seeks documents or information containing communications or other matters protected from disclosure by the attorney-client privilege and/or the work product doctrine.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner “selected” as Petitioner interprets that term, to use Petitioner’s R REVENGE and Design Mark for use with the identified goods in Petitioner Trademark Application No. 90/403,196 in International Class 012, because of Petitioner’s association with past work relationships and employment experiences where Petitioner was treated unfairly, aiming to demonstrate the successful response through this choice in 2020.

INTERROGATORY NO. 17

State all facts relating to the first time You became aware of the existence of Registrant.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to this Interrogatory on the ground that it is vague and ambiguous. Petitioner also objects to the Interrogatory on the ground that it is not limited to product/service, and thus is overbroad. Petitioner also objects to this Interrogatory on the ground that it seeks documents or information containing communications or other matters protected from disclosure by the attorney-client privilege and/or the work product doctrine. Petitioner also objects to this Interrogatory to the extent that it seeks information already in Respondent’s possession or control or that is publicly available, and thus equally accessible to Respondent.

Petitioner became aware of Registrant's existence when Registration No. 5,573,560 For REVENGE AUTO PARTS for “On-line wholesale and retail store services featuring auto parts” in International Class 035 was cited in the Office Action against the registration of the Petitioner's Trademark Application No. 90/403,196 for R REVENGE and Design for “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for

vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” in International Class 012.

INTERROGATORY NO. 18

State all facts relating to the first time You became aware of the existence of Registrant’s Mark.

ANSWER:

Petitioner objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to this Interrogatory on the ground that it is vague and ambiguous. Petitioner also objects to the Interrogatory on the ground that it is not limited to product/service, and thus is overbroad. Petitioner also objects to this Interrogatory on the ground that it seeks documents or information containing communications or other matters protected from disclosure by the attorney-client privilege and/or the work product doctrine. Petitioner also objects to this Interrogatory to the extent that it seeks information already in Respondent’s possession or control or that is publicly available, and thus equally accessible to Respondent.

Petitioner became aware of Registrant's Mark existence when Registration No. 5,573,560 For REVENGE AUTO PARTS for “On-line wholesale and retail store services featuring auto parts” in International Class 035 was cited in the Office Action against the registration of the Petitioner's Trademark Application No. 90/403,196 for R REVENGE and Design for “Wheel disks for vehicles; Wheel rims; Wheel rims for motor cars; Wheels; Wheels for automobiles; Rims for vehicle wheels; Vehicle wheel rims; Vehicle wheel rims and structural parts therefore; Vehicle wheel spokes; Vehicle wheels” in International Class 012.

Respectfully submitted,

L.A. LAW, PLLC

Dated: October 2, 2023

By: /Lina Asmar/

Lina A. Asmar (Reg. No. 77,845)

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Suite 4007

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Phone: (248) 996-0494

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing *PETITIONER'S RESPONSES AND OBJECTIONS TO RESPONDENT'S INTERROGATORIES TO PETITIONER, SET ONE (1-18)* has been served on Marc E. Hankin, Kevin Schraven, and Amy Burke by forwarding said copy on October 02, 2023, via email to their email addresses of record: courtfilin@hankinpatentlaw.com, marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, and amyb@hankinpatentlaw.com

L.A. LAW, PLLC

Date: October 2, 2023

By: /Lina A. Asmar/
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Attorney for Petitioner

EXHIBIT C

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

California Wheel Distributor Inc.,

Petitioner,

v.

Peregrine Automotive, LLC,

Respondent.

Cancellation No. 92080626

Registration No. 5,573,560

For Trademark: REVENGE AUTO PARTS

Interlocutory Attorney: WILLIAM D JACKSON

L.A. LAW, PLLC

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Attorneys for Respondent

**PETITIONER'S RESPONSES AND OBJECTIONS TO RESPONDENT'S
PRODUCTION OF DOCUMENTS TO PETITIONER, SET ONE (1-16)**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Petitioner, California Wheel Distributor Inc. ("Petitioner"), by and through its attorney, hereby serves its responses and objections to the Peregrine Automotive, LLC's ("Respondent") Production of Documents to Petitioner, set one (1-16).

PRELIMINARY STATEMENT

These responses are made solely for the purpose of and in relation to this matter. Petitioner has not fully completed its investigation, discovery, analysis, legal research, and preparation for trial in this matter. The responses contained herein are based only upon the information and

documentation that is presently available and known to Petitioner, and which has been identified as containing relevant information. It is possible that further investigation, discovery, analysis, legal research, and/or preparation may result in the ascertainment of additional information or documentation or provide additional meaning to known factual conclusions and legal contentions, all of which may result in modification of these responses. Accordingly, Petitioner reserves the right, but does not assume the obligation, to modify its responses herein based upon subsequently ascertained, identified, or developed information, facts and contentions.

No incidental or implied admissions are intended by the responses herein. The fact that Petitioner has supplied, or hereafter supplies, information in response to any particular request should not be taken as an admission that Petitioner accepts or admits the existence of any fact set forth or assumed by such request or that such information constitutes admissible evidence. The fact that Petitioner has supplied or hereafter supplies information in response to any request is not intended, and shall not be construed, as a waiver by Petitioner of any part of any objection to any such request. The fact that Petitioner makes a response and/or objection to any request is not intended, and shall not be construed, as an admission that information responsive to that request exists.

Subject to the objections asserted herein, Petitioner's responses are made in a good faith effort to reasonably respond to the requests based upon presently available information and documentation. These responses are provided without prejudice to Petitioner's rights to conduct further investigation, discovery, analysis, legal research and/or preparation, and shall not limit Petitioner's right to utilize any additional evidence or documents that may be identified, discovered, or developed.

Specific objections to each separate request are made on an individual basis in Petitioner's responses below. In addition to the specific objections, Petitioner's makes certain general and continuing objections as well as objections to the definitions and instructions ("General Objections") to all of the requests. These General Objections are hereby incorporated by reference into the responses made to each request. Petitioner's response to each individual request is submitted without prejudice to, and without waiving in any respect, any General Objections not expressly set forth in that response. Accordingly, the inclusion of any specific objection to a request in any response below is neither intended as, nor in any way shall be deemed to be, a waiver of any General Objections or any other specific objection made herein or that may be asserted at a later date. In addition, the failure to include at this time any general or specific objection to a request is neither intended as, nor shall in any way be deemed, a waiver of Petitioner's rights to assert that or any other objection at a later date.

GENERAL OBJECTIONS

1. Petitioner objects to any directions, definitions, and instructions contained in Respondent's requests that seek to impose any obligation or responsibilities other than the requirements mandated by the Federal Rules of Civil Procedure ("Federal Rules").

2. Petitioner objects to Respondent's requests to the extent that they seek information not within Petitioner's possession, custody or control.

3. Petitioner objects to each and every request to the extent that it seeks production of documents or information containing communications or other matters protected from disclosure by the attorney-client privilege, the work product doctrine, Rule 408 of the Federal Rules of Evidence, Rule 26(b)(4) of the Federal Rules, or any other applicable privileges, doctrines or immunities (hereafter, "Privileged Information"). Any undertaking to produce documents or

provide information should be understood to exclude all Privileged Information. Petitioner specifically reserves the right to demand the return of any documents or information that may be produced inadvertently during discovery if Petitioner determines that such documents or information contain Privileged Information. Any inadvertent production of documents or information containing Privileged Information shall not be deemed to be a waiver of the aforementioned privileges (“Privilege” or “Privileged”). Petitioner also objects to the requests themselves to the extent they appear to seek information protected by the work product privilege.

4. Petitioner objects to Respondent’s requests to the extent that they are duplicative of interrogatories.

5. As set forth more fully below, Petitioner objects to Respondent’s requests and to the “Definitions” provided with those requests to the extent that they are vague, ambiguous, and unclear.

6. Petitioner objects to Respondent’s requests to the extent they seek documents or information already in the possession, custody or control of Respondent, or that are available to Respondent from public sources.

7. Petitioner objects to Respondent’s requests as overly broad and unduly burdensome to the extent it seeks information or documents that are not relevant to any party’s claim or defense, and/or not reasonably calculated to lead to the discovery of admissible evidence, and/or outside the scope of discovery as defined by Federal Rule 26.

8. Petitioner objects to Respondent’s requests to the extent they seek discovery of confidential, proprietary or sensitive information that is not relevant to the issues in this case and is requested as a means of harassment to Petitioner and its business.

9. Petitioner objects to Respondent's requests to the extent that they seek a legal conclusion or the opinion of an expert, neither of which Petitioner is qualified to respond to. Petitioner further objects to Respondent's requests to the extent that they seek to circumvent the requirements of the Federal Rules and/or any scheduling order in this Cancellation.

10. Petitioner objects to the disclosure of any information or to the production of any documents that are confidential or proprietary.

OBJECTIONS TO DEFINITIONS

Petitioner incorporates its Objections to the Definitions set forth in the Responses and Objections to Respondent's First Set of Interrogatories, served concurrently herewith, as if fully set forth herein.

Petitioner further objects to Respondent's Definitions to the extent they seek to impose burdens on Petitioner above and beyond those required by the Federal Rules of Civil Procedure or any order of the TTAB.

Subject to and without waiving any of the above-referenced General Objections and Objections to Definitions, and incorporating each of them as to each request by this reference, Petitioner responds to each request as follows:

DOCUMENT REQUESTS

Request No. 1: All "Records relating to the formation, history, operation, and personnel of Petitioner" as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, oppressive, and that it seeks document not relevant to any claim or defense asserted in this action, and not proportional to the

needs of this case. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce a representative document showing that Petitioner was formed on March 30, 2020. The sole individual responsible for overseeing the business operations of Petitioner is Eugenia Muro, as provided in the Initial Disclosure. Petitioner will also produce any non-privileged documents responsive to this Request to the extent that they exist and can be located after a reasonable search.

Request No. 2: All "Records relating to the conception, design, development, and adoption of Petitioner's mark" as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary

business information. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents this request to the extent that they exist and can be located after a reasonable search.

Request No. 3: All "Records relating to the use of Petitioner's mark in connection with the identified goods in Class 12, in connection with the marketing, advertisement, and promotion of such goods" as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive, seeks document not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents showing that the Petitioner's R REVENGE and Design mark in in connection with the identified goods in Class 12 that are marketed nationwide via the internet via the internet, at trade

shows and conferences, and through printed materials. Some of this information can be also found on Petitioner's website at: <https://californiawheeldist.com/> and <https://californiawheeldist.com/catalog/>.

Request No. 4: All "Records relating to the goodwill associated with and public recognition of the Petitioner's mark" as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Portioner's first used the R REVENGE mark in the commerce in 2021. Petitioner thus objects to this Request for "all Records relating to the goodwill of the Petitioner's mark on" the grounds that the Request calls for production of documents that are overly broad, unduly burdensome, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner's use of its mark since it applied to register it under an intent-to-use basis

Request No. 5: All “Records relating to the channels of trade through which Petitioner’s goods are offered for sale” as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner’s confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents showing that Petitioner’s goods are marketed nationwide via the internet, retailers, and distributors. Some of this information can be also found on Petitioner’s website at: <https://californiawheeldist.com/>.

Request No. 6: All “Records relating to Petitioner’s actual and prospective or target customers for its goods” as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner

also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents showing the actual and prospective or target customers for its goods.

Request No. 7: All "Publicly available records relating to services provided by Respondent and documents reflecting Respondent's use of the REVENGE AUTO PARTS in relation to such services and Respondent's other marks" as identified in Your Initial Disclosures.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner further objects to the extent this Request require disclosure of information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce non-privileged documents responsive to this Request to the extent that they still exist online and can be located

after a reasonable search. Petitioner will provide other documents that relate to this request. Discovery is continuing and Petitioner reserves the right to supplement its responses herein. Petitioner expects to provide documents that includes, but is not limited to, U.S. Application Ser. No. 87/676,067 for REVENGE AUTO PARTS and the related file histories, and any relevant documents.

Request No. 8: All Documents that support Your contention in Paragraph 2 of the Petition for Cancellation that Registrant is not currently using Registrant's Mark properly in interstate commerce.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner further further objects to the extent this Request require disclosure of information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce non-privileged documents responsive to this Request to the extent that they still exist online and can be located after a reasonable search. Petitioner will provide other documents that relate to Petitioner's claim and defense. Discovery is continuing and Petitioner reserves the right to supplement its responses herein. Petitioner also expects to provide documents that includes, but is not limited to, U.S.

Application Ser. No. 87/676,067 for REVENGE AUTO PARTS and the related file histories, and any relevant documents.

Request No. 9: All Documents that support Your contention in Paragraph 3 of the Petition for Cancellation that Registrant has abandoned Registrant's Mark.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner further further objects to the extent this Request require disclosure of information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce non-privileged documents responsive to this Request to the extent that they still exist online and can be located after a reasonable search. Petitioner will provide other documents that relate to its claim or defense. Discovery is continuing and Petitioner reserves the right to supplement its responses herein. Petitioner expects to provide documents that includes, but is not limited to, U.S. Application Ser. No. 87/676,067 for REVENGE AUTO PARTS and the related file histories, and any relevant documents.

Request No. 10: All Documents that support Your contention in Paragraph 4 of the Petition for Cancellation that Registrant is not currently using Registrant's Mark in association with all the listed services in Registrant's registration.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner further objects to the extent this Request require disclosure of information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce non-privileged documents responsive to this Request.

Request No. 11: Documents sufficient to reflect all of Your advertising and marketing materials related to goods bearing the mark displayed in Your Trademark Application No. 90/403,196.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents showing that Petitioner's goods are marketed nationwide via the internet, at trade shows and conferences, and through printed materials. This information can be also found on Petitioner's website at: <https://californiawheeldist.com/> and <https://californiawheeldist.com/catalog/>.

Request No. 12: Documents sufficient to reflect all of Your sales of goods bearing the mark displayed in Your Trademark Application No. 90/403,196 to consumers.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner interprets "Your sales of Goods" to refer to "Petitioner's Goods" as defined herein by Respondent, namely, the goods set forth in U.S. Application No. 90/403,196. Petitioner thus objects to this Request for "all of Your sales of goods bearing the mark displayed in Petitioner's mark" on the grounds that the Request calls for production of documents that are overly broad, unduly burdensome, not relevant to any claim or defense asserted in this action, and not proportional to the needs of this case, given that there is no dispute as to Petitioner's use of its mark since it applied to register it under an intent-to-use basis.

Request No. 13: Documents sufficient to reflect all of Your sales of goods bearing the mark displayed in Your Trademark Application No. 90/403,196 to retailers.

Response:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Request No. 12 above.

Request No. 14: Documents sufficient to reflect all of Your sales of goods bearing the mark displayed in Your Trademark Application No. 90/403,196 to distributors.

Response:

Subject to and without waiver of the foregoing objections, Petitioner refers to and incorporates its response to Request No. 12 above.

Request No. 15: Documents sufficient to reflect the manner in which You have uses the mark displayed in Your Trademark Application No. 90/403,196 from your first use of the mark to the present date.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce non-privileged documents responsive to this Request showing Petitioner's goods with the Petitioner Mark's thereon which Petitioner has used the mark as displayed in its Trademark Application No. 90/403,196 since its initial use.

Request No. 16: Documents sufficient to reflect the channels of trade in which You sell goods bearing the mark displayed in Your Trademark Application No. 90/403,196.

Response:

Petitioner incorporates its General Objections as if fully set forth herein. Petitioner objects to this request on the grounds that it is overbroad, unduly burdensome, and oppressive. Petitioner also objects to the Request on the ground that it is not limited to time and thus is overbroad. Petitioner also objects to this Request on the ground that it seeks documents or information already in the possession, or that is or are available to Respondent from public sources. Petitioner also objects to this Request on the ground that it seeks documents or information that is or are irrelevant and/or not reasonably calculated to lead to the discovery of admissible evidence. Petitioner also objects on the grounds that the Request calls for production of documents that are not relevant to any claim or defense asserted in this action. Petitioner also objects to this request to the extent it seeks information containing Petitioner's confidential and proprietary business information.

Subject to the foregoing general and specific objections, all of which are expressly incorporated herein, Petitioner responds as follows: Petitioner will produce representative documents showing that Petitioner's goods are marketed nationwide via the internet, retailers, and distributors. Some of this information can be also found on Petitioner's website at: <https://californiawheeldist.com/>.

Respectfully submitted,

L.A. LAW, PLLC

Dated: October 2, 2023

By: /Lina Asmar/

Lina A. Asmar (Reg. No. 77,845)

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Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing *PETITIONER'S RESPONSES AND OBJECTIONS TO RESPONDENT'S PRODUCTION OF DOCUMENTS TO PETITIONER, SET ONE (1-16)* has been served on Marc E. Hankin, Kevin Schraven, and Amy Burke by forwarding said copy on October 02, 2023, via email to their email addresses of record: courtfilings@hankinpatentlaw.com, marc@hankinpatentlaw.com, kevin@hankinpatentlaw.com, and amyb@hankinpatentlaw.com

L.A. LAW, PLLC

Date: October 2, 2023

By: /Lina A. Asmar/
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Email: LAsmar@lalawusa.com
Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing REGISTRANT'S REPLY IN SUPPORT OF MOTION TO COMPEL was served on Petitioner's counsel by electronic mail to counsel's address of record on October 5, 2023.

By: *Amy E. Burke*
Amy E. Burke