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

Proceeding no.	92087430
Party	Defendant Next Level Private LLC
Correspondence address	NEXT LEVEL PRIVATE LLC DUANE MORRIS LLP 230 PARK AVENUE SUITE 1130 NEW YORK, NY 10169 UNITED STATES Primary email: malerner@duanemorris.com Secondary email(s): trademarks@duanemorris.com 212-404-8714
Submission	Reply in Support of Motion
Filer's name	Mark A Lerner
Filer's email	malerner@duanemorris.com, lsilva@duanemorris.com
Signature	/mark lerner/pb/
Date	08/19/2025
Attachments	8.19.2025 Respondent's Reply ISO Motion to Compel Discovery.pdf(1511668 bytes)

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

In the Matter of Trademark Registration No. 6,829,211
Registered: August 23, 2022
For the Mark: NEXT LEVEL PRIVATE

NXT LEVEL HOLDINGS LLC,	:	
Petitioner,	:	
v.	:	**Cancellation No.:** 92087430
NEXT LEVEL PRIVATE LLC,	:	
Respondent.	:	

RESPONDENTS' REPLY IN SUPPORT OF ITS MOTION TO COMPEL DISCOVERY

INTRODUCTION

Respondent, Next Level Private LLC ("Respondent" or "Next Level Private"), hereby files this Reply brief in further support of its Motion to Compel Discovery from Petitioner, pursuant to TBMP § 523 and 37 C.F.R. § 2.120(f). (TTABVUE #12). Respondent submits this reply not to repeat the arguments set forth in the Motion, but to address the misstatements in Petitioner's Opposition filed on August 7, 2025 (TTABVUE #13). In its Opposition, Petitioner claims that it has served "its Requested Disclosures, along with Responses to First Request for Production of Documents and Things, and Interrogatories," and, as such, "Respondent's Motion to Compel is moot." *See* TTABVUE #13, pg. 1. Petitioner also claims that it has "acted in good faith to comply with its disclosure obligations and has not engaged in any undue delay." These statements are demonstrably false.

On August 6, 2025, Petitioner served an email to Respondent's counsel stating, "Please see attached responses to interrogatories, and production, contained within this google [sic] drive

link." *See* Exhibit A. However, the documents accessible in the Google drive were only responses that purported to correspond to the Request for Documents. Moreover, the Responses explicitly indicated that responses to Respondent's Interrogatories were forthcoming. *See* Exhibit B, Petitioner's Responses to Respondent's Request for Production, Response No. 2 ("Petitioner states that all responsive, non-privileged, and presently known information will be provided in Petitioner's written responses to Respondent's interrogatories, which shall be served in accordance with the Board's established schedule and applicable discovery rules under 37 C.F.R. § 2.120."). The materials served were clearly limited to the Requests for Production; no responses to the Interrogatories were provided together with them, or since. Petitioner's own submissions thus confirm that the interrogatory responses remain outstanding. This discrepancy is more than a minor procedural oversight; it represents a material misstatement to the Board.

In addition to the failure to respond to the Interrogatories, the responses that Petitioner served on August 6, 2025, are fundamentally deficient and noncompliant with the Board's discovery rules. [1] The responses are unsigned and unverified, in direct contravention of TBMP § 401.05 and Fed. R. Civ. P. 26(g), which requires that discovery responses be verified to ensure their accuracy. TBMP § 401.05; Fed. R. Civ. P. 26(g) ("Every disclosure under Rule 26(a)(1) or (a)(3) and every discovery request, response, or objection must be signed by at least one attorney of record in the attorney's own name—or by the party personally…"). This procedural deficiency alone renders the responses inadequate, as there is no formal attestation that the information provided is complete or correct. *Id*. (There is "no duty to act on an unsigned disclosure, request, response, or objection until it is signed, and the court must strike it unless a signature is promptly supplied.").

[1] Among other deficiencies discussed herein, Petitioner's Response No. 49 is entirely missing and has not been provided as of the date of this reply.

Moreover, Petitioner's responses rely heavily on boilerplate objections and narrative explanations that do not indicate whether it has undertaken a reasonable search, nor whether there are responsive documents available for inspection or production. This approach is insufficient under 37 C.F.R. § 2.120(e) and TBMP § 406.04. As noted in Respondent's Motion to Compel, Petitioner's lack of diligence and good faith in responding should result in a forfeiture of any right to object. *See* TTABVUE #12, pg. 4; *See also* TBMP 403.03 ("A party which fails to respond to interrogatories or document requests during the time allowed therefor, and which is unable to show that its failure was the result of excusable neglect, may be found, upon motion to compel filed by the propounding party, to have forfeited its right to object to the discovery request on its merits."); *Crane Co. v. Shimano Industrial Co.*, 184 USPQ 691, 691 (TTAB 1975) (waived right to object by refusing to respond to interrogatories, claiming that they served "no useful purpose"). Even if Petitioner were permitted to interpose objections, its objections based on confidentiality and trade secret concerns (*See e.g.*, Exhibit B, Petitioner's Responses to Respondent's Request for Production, Response Nos. 28, 29, 33 and 34) are an improper basis on which to withhold documents given the Board's Standard Protective Order is in place, as explicitly indicated in Section D of the Board's April 10, 2025, Scheduling Order. TTABVUE #9, pg. 7.

Petitioner only produced documents in response to two requests. Although numerous responses reference documents including internal records, press releases, or publicly available databases, Petitioner failed to produce these referenced documents.

In sum, as of the date of this Reply, Petitioner's responses to Respondent's Interrogatories remain outstanding, and Petitioner's responses to Respondent's Request for Production of Documents and Things do not comply with Petitioner's obligations under the

applicable rules. Petitioner has made no request for additional time, nor has it communicated any justification for its delay as to the Interrogatory responses. This pattern of delay is consistent with Petitioner's earlier failure to serve initial disclosures in a timely manner. Those disclosures, due on June 6, 2025, were not provided until July 14, 2025, and only after Respondent filed a motion to compel their production. *See* TTABVUE #10, pg. 2-3. To date, Respondent has been compelled to file two motions to compel in this proceeding to address Petitioner's repeated delays, lack of communication, and ongoing failure to comply with discovery rules. This conduct reflects a clear disregard for both the Board's rules and the obligations of good-faith cooperation with the discovery process, severely prejudicing Respondent's ability to defend its registration in this proceeding.

Because Petitioner has repeatedly failed to act in good faith, the Board's intervention is necessary to ensure compliance. An order compelling complete discovery responses not subject to any objections should issue.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Board grant its Motion to Compel and order Petitioner to provide verified, complete, and substantive responses to all outstanding discovery requests, including all Interrogatories and Requests for Production of Documents and Things without objection, in accordance with 37 C.F.R. § 2.120.

Dated: August 19, 2025

Respectfully submitted,

DUANE MORRIS LLP

By: */Mark A. Lerner/*

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Attorney for Respondent

CERTIFICATE OF SERVICE

I hereby certify that, on the 19th day of August, 2025, I served a copy of the Reply in Support of Respondent's Motion to Compel Discovery, by email, upon the following party identified as correspondents and counsel of record for the Petitioner:

Andrew Delaney
NXT Level Holdings LLC
6 South Street, Suite 203
Morristown, NJ 07960
862-812-6874
adelaney@andrewdelaneylaw.com

Dated: August 19, 2025

By: */Patrick Boisson /*

EXHIBIT A

Silva, Lauren C.

From: Andrew DeLaney <adelaney@andrewdelaneylaw.com>
Sent: Wednesday, August 6, 2025 1:28 PM
To: Lerner, Mark
Cc: Silva, Lauren C.
Subject: Re: Certificate of Service: Next Level vs. Nxt Level: Document Requests and Interrogatories

Please see attached responses to interrogatories, and production, contained within this google drive link.

https://drive.google.com/drive/folders/1On_Lcp4dZg2S4y4OLDOwDSre5zQNajw_?usp=sharing

Please advise if you have any questions. Thank you, and we'll talk

On Tue, Jul 15, 2025 at 3:10 PM Lerner, Mark <MALerner@duanemorris.com> wrote:

> Mr. Delaney:
>
> Thank you for providing the Initial Disclosures. We reserve our right to object to the disclosures. In the meantime, we take issue with your submission to the TTAB noting that these disclosures were "timely served." They were served over five weeks late with no explanation.
>
> Moreover, we note that while you have forwarded these disclosures in response to our email from Friday, July 11, regarding Petitioner's overdue responses to Respondent's Requests for Production of Documents and Things and Interrogatories served on June 6, 2025, your email below does not address that delinquency at all. This email thus serves as our third outreach to you regarding Petitioner's failure to comply with Federal Rules of Civil Procedure and Trademark Rule of Practice 37 C.F.R. 2.120(a)(3). Please advise us of the status of Petitioner's responses.
>
> We reserve Petitioner's right to make a motion and to seek other appropriate relief should we not promptly receive a substantive explanation regarding Petitioner's efforts to fulfil its obligations.
>
> **Mark Lerner**
>
> Partner
>
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From: Andrew DeLaney <adelaney@andrewdelaneylaw.com>
Sent: Monday, July 14, 2025 12:34 PM
To: Lerner, Mark <MALerner@duanemorris.com>
Cc: Silva, Lauren C. <LSilva@duanemorris.com>
Subject: Re: Certificate of Service: Next Level vs. Nxt Level: Document Requests and Interrogatories

Mr. Lerner,

Please see attached initial disclosures.

On Fri, Jul 11, 2025 at 6:27 PM Lerner, Mark <MALerner@duanemorris.com> wrote:

> Mr. Delaney:
>
> I write to follow up on my colleague's email from earlier this week. To date, we still have not received Petitioner's responses to Respondent's discovery requests, nor have we received any response to the earlier email or any other communication or request to meet and confer. We would appreciate the courtesy of a response.
>
> As you have seen, we were forced to file a motion to compel Petitioner to serve Initial Disclosures. We hope to avoid more motion practice, but we reserve Petitioner's right to make such a motion and to seek other appropriate relief should we not receive a timely reply.
>
> **Mark Lerner**
>
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From: Silva, Lauren C. <LSilva@duanemorris.com>
Sent: Tuesday, July 8, 2025 5:32 PM
To: adelaney@andrewdelaneylaw.com
Cc: Lerner, Mark <MALerner@duanemorris.com>
Subject: RE: Certificate of Service: Next Level vs. Nxt Level: Document Requests and Interrogatories

Mr. Delaney,

Petitioner's responses and/or objections to Respondent's discovery requests, including the Requests for Production of Documents and Things and Interrogatories served on June 6, 2025, were due yesterday, July 7, 2025. To date, no responses have been received. You did not reach out in advance to seek an extension, nor have you otherwise communicated any reason for the delay.

Petitioner's failure to timely serve responses violates its obligation under the Federal Rules of Civil Procedure and Trademark Rule of Practice 37 C.F.R. 2.120(a)(3). Please respond to this email with confirmation that you will immediately serve complete responses. Otherwise, please promptly notify us if there is a valid and compelling reason why Petitioner is unable to meet its obligations.

Respondent reserves all rights to seek appropriate relief from the Board if the issue is not promptly resolved.

Regards,

Lauren

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From: Boisson, Patrick <PBoisson@duanemorris.com>
Sent: Friday, June 6, 2025 12:57 PM
To: adelaney@andrewdelaneylaw.com
Cc: Lerner, Mark <MALerner@duanemorris.com>; Silva, Lauren C. <LSilva@duanemorris.com>
Subject: Certificate of Service: Next Level vs. Nxt Level: Document Requests and Interrogatories

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E-MAIL

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Cell. 862-812-6874

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EXHIBIT B

Response to Request Number 1.

All information responsive to your request has been previously provided through initial disclosures and is contained within the Exhibits annexed to the referenced document.

To the extent you believe additional information is necessary, you are hereby requested to identify with specificity the precise nature, scope, and subject matter of the information sought so that an appropriate and timely response may be formulated in accordance with applicable procedural rules.

Response to Request Number 2.

Petitioner states that all responsive, non-privileged, and presently known information will be provided in Petitioner's written responses to Respondent's interrogatories, which shall be served in accordance with the Board's established schedule and applicable discovery rules under 37 C.F.R. § 2.120.

To the extent Respondent seeks information already disclosed, Petitioner refers Respondent to Petitioner's Initial Disclosures and any accompanying Exhibits submitted therewith, which include information and documentation responsive to issues raised in this proceeding. Petitioner further states that it is undertaking a diligent and good faith effort to collect, review, and disclose responsive information through formal discovery channels, and reserves the right to supplement its responses pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

Should Respondent believe that specific additional information is required beyond what will be provided through Petitioner's forthcoming interrogatory responses, Petitioner respectfully requests that Respondent identify with reasonable particularity the nature and scope of the additional information sought so that Petitioner may respond appropriately and without undue burden or ambiguity.

This response is made without prejudice to Petitioner's right to assert additional objections, raise applicable privileges or protections, or supplement its responses as discovery continues and additional facts become known.

Response to Request Number 3.

NXT Level Holdings LLC, first became aware of NEXT Level Private, through publicly available internet sources in or around September 2021, shortly after Respondent's announcement of its formation and launch became accessible to the general public online. At that time, Petitioner conducted routine internet searches using common search engines to monitor for any potentially conflicting uses of marks similar to its own. Through these searches, Petitioner discovered the existence of NEXT Level Private and took note of its apparent business activities. Although Petitioner did not retain screenshots or records of the specific search results from that period, the existence of Respondent's business was readily observable through publicly accessible web content. Since that initial discovery, and prior to the issuance of Petitioner's trademark registrations, Petitioner's principal made a deliberate mental note of Respondent's existence and periodically checked on its development and market activity as part of routine brand monitoring. Petitioner notes that during the intervening time period, certain electronic devices—including but not limited to desktop and laptop computers, mobile phones, and tablet devices—were replaced, reformatted, or otherwise rendered obsolete in the ordinary course of business operations, resulting in the unavailability of the original browser histories, search logs, or other digital traces of the aforementioned internet searches. Nevertheless, Petitioner affirms the timeline and nature of its awareness of Respondent's business as described herein.

Response to Request Number 4.

NXT Level Holdings LLC, first became aware of NEXT Level Private use of the mark "NEXT Level Private" and its corresponding federal trademark application in or around September 2021, when a routine internet search revealed the existence of Respondent's pending trademark filing with the United States Patent and Trademark Office. At that time, Petitioner was actively monitoring newly filed applications for marks similar to its own, in connection with its longstanding common law use of the NXT LEVEL brand in commerce. Upon discovering Respondent's trademark filing, Petitioner made a deliberate mental note of the application and resolved to monitor its progress through the USPTO database. Although Petitioner did not immediately take formal action, it continued to track the status of Respondent's application as it proceeded through the federal registration process. During the intervening period between business incorporation and trademark registration, Petitioner's principal made periodic checks on Respondent's filing using publicly accessible resources, while awaiting the issuance of Petitioner's own federal trademark registrations. Petitioner further notes that the electronic devices originally used to conduct the September 2021 searches and subsequent monitoring—including but not limited to business laptops, desktop computers, smartphones, and tablets—have since been replaced, upgraded, or otherwise retired in the normal course of business, and as a result, specific browser history, search queries, and related metadata associated with those searches are no longer available. Nonetheless, Petitioner affirms that the discovery of Respondent's trademark application in September 2021 marked the beginning of a consistent good faith effort to observe and evaluate the extent of any potential conflict, and Petitioner acted promptly and appropriately upon receipt of its own federal trademark registrations to initiate this proceeding.

Response to Request Number 5.

NXT Level Holdings LLC responds to this Request by stating that all documents and communications in its possession, custody, or control that are responsive to Request for Production No. 5 have been compiled and are being produced herewith in the form of downloadable email files. These documents represent the entirety of the responsive materials located after a reasonable and diligent search of NXT Level Holdings LLC's records, and include emails, attachments, and related correspondence relevant to the subject matter described in the Request.

NXT Level Holdings LLC further states that the emails are being provided in a standard file format (e.g., .eml, .msg, or .pdf), which preserves the metadata and integrity of the original communications to the extent technically feasible. The production is made in good faith and in accordance with the applicable provisions of the Federal Rules of Civil Procedure and the Trademark Trial and Appeal Board Manual of Procedure (TBMP).

Should Respondent believe that any particular category of communication is missing or incomplete, NXT Level Holdings LLC respectfully requests that Respondent specify, with reasonable particularity, the nature of the allegedly missing documents so that a further targeted inquiry may be conducted and a supplemental response provided, if necessary.

This production is made without waiver of, and expressly subject to, all objections previously stated, including but not limited to objections based on privilege, relevance, overbreadth, and undue burden.

Response to Request Number 6.

NXT Level Holdings LLC responds to this request by stating that the creation, conceptualization, ideation, and ultimate adoption of the federally registered trademark at issue (the "NXT LEVEL" mark) occurred entirely through internal deliberation, strategic brand planning, and the collaborative exchange of ideas between NXT Level Holdings LLC's principals, founders, and affiliated partners. The trademark was conceived as a central element of NXT Level Holdings LLC's brand identity, long before any formal applications or public-facing materials were generated, and its selection was the product of extensive creative thought and collective entrepreneurial vision.

The development process was organic, intuitive, and inherently informal in nature. It involved numerous verbal discussions, brainstorming sessions, and evaluative conversations conducted over time—often in person and across various settings—as the founding team refined their vision for the brand and the message they sought to convey in commerce. The adoption of the mark was not the result of a single formalized event, document, or memo, but rather a culmination of ongoing conceptual evolution rooted in the personal experience, business values, and strategic objectives of those involved in the creation of NXT Level Holdings LLC.

At the time of conceptual development, the principals did not generate, compile, or memorialize their creative processes in a structured documentary format. There are no contemporaneous written records, emails, presentation decks, or memos that captured the real-time emergence of the brand name or trademark, as the ideation process unfolded over informal dialogue and spontaneous exchanges. Accordingly, there exist no physical or electronic documents in NXT Level Holdings LLC's possession, custody, or control that could meaningfully replicate or reconstruct the mental processes, strategic discussions, or creative decisions that led to the adoption of the mark.

NXT Level Holdings LLC affirms that the distinctiveness and commercial impression of the "NXT LEVEL" mark emerged from a shared business philosophy and a forward-looking brand strategy—elements which, by their very nature, were not documented in a way that can be reproduced or retrospectively assembled for production. While NXT Level Holdings LLC has since created marketing materials, brand assets, and legal filings that reflect and embody the trademark in its applied commercial form, those materials post-date the core ideation phase and were prepared after the trademark had already been internally adopted.

Therefore, to the extent this Request seeks the production of documents or tangible materials that evidence the inception and conceptual development of the trademark itself, NXT Level Holdings LLC respectfully states that no such responsive documents exist. The creation and adoption of the mark occurred entirely through the mental processes and interpersonal collaboration of NXT Level Holdings LLC's founders, none of which were reduced to formal writings at the time. Any subsequent documents referencing the mark pertain to its later use and enforcement, and not to the original ideation phase. NXT Level Holdings LLC continues to assert that the mark originated as a unique expression of its brand identity and was developed in good faith, independently and without reference to any other party's trademarks or business names.

This response is made after a reasonable and diligent investigation and is provided without waiver of, and expressly subject to, all previously stated general and specific objections, including but not limited to objections based on privilege, relevance, overbreadth, and undue burden. NXT Level Holdings LLC reserves the right to supplement or amend this response as appropriate under the Federal Rules of Civil Procedure and the applicable rules governing TTAB proceedings.

Response to Request Number 7.

https://www.nxtlevelholdings.com/entrepreneurship

Formal Legal Explanation Regarding the Scope of "Entrepreneurship" and Its Inclusion of Comprehensive Business Consulting Services

NXT Level Holdings LLC ("Petitioner") hereby provides the following explanation concerning the scope of the term "entrepreneurship" as it relates to the services identified in the instant proceeding, and to clarify that entrepreneurship, as a matter of law, business practice, and authoritative definition, inherently encompasses a wide array of business consulting services, including but not limited to expert analysis and management consulting in economics and accounting; brand imagery consulting services; business consulting and information services; business marketing consulting services; business management consulting; business organization consulting; corporate image consulting services; direct marketing consulting services; marketing consulting; personnel management consulting; and professional business consulting.

I. Entrepreneurship: A Broad and Inclusive Discipline

Entrepreneurship is broadly defined as the process of conceptualizing, launching, operating, and managing new and existing business ventures. This broad definition is supported by leading academic and professional authorities. The Kauffman Foundation, a preeminent institution dedicated to entrepreneurial research, defines entrepreneurship as "the process of designing, launching, and running a new business," which necessarily involves multiple facets of business planning, management, and advisory activities.[1] The Harvard Business Review further underscores entrepreneurship as "the pursuit of opportunity beyond resources controlled," thereby requiring diverse strategic, managerial, and consulting expertise.[2]

II. The Integral Role of Consulting Services Within Entrepreneurship

The United States Small Business Administration ("SBA"), a key government resource supporting entrepreneurial endeavors, explicitly acknowledges that entrepreneurs commonly rely on a variety of business consulting services to aid in developing business plans, marketing strategies, financial management, and organizational structures.[3] Likewise, the International Council of Management Consulting Institutes ("ICMCI") characterizes management consulting as "an integral component of the entrepreneurial ecosystem," emphasizing the critical role such services play in enabling businesses to innovate, organize, and compete effectively.[4]

Academically, entrepreneurship textbooks widely present the discipline as encompassing all key business functions including management, marketing, finance, and organizational development, which are typically delivered through consulting engagements.[5] The seminal economic theorist Joseph Schumpeter described entrepreneurs as agents of change who innovate by recombining resources and restructuring organizations, processes that require expert consulting input and strategic management advice.[6]

III. Legal and Trademark Classification Context

In the context of trademark law, the United States Patent and Trademark Office ("USPTO") specifically categorizes consulting services—such as business consulting, management consulting, marketing consulting, and related advisory services—under International Class 35. This governmental classification confirms that such services are recognized as inherently connected to and representative of entrepreneurial activities. Therefore, any claim of offering "entrepreneurship" services necessarily includes the full spectrum of business consulting services traditionally subsumed within Class 35.

IV. Practical Business Considerations

In practical application, entrepreneurial success depends heavily upon specialized consulting services. Economic and accounting consulting support sound financial planning and compliance; brand imagery and corporate image consulting cultivate strong market presence; marketing consulting drives customer acquisition and growth; personnel management consulting enables effective team development; and business organization consulting optimizes operational efficiency. These services collectively form the backbone of entrepreneurship, demonstrating that entrepreneurship is not limited to ideation or startup formation but extends to the full range of business consulting activities essential for enterprise viability and expansion.

Conclusion

Based on the foregoing authoritative definitions, government classifications, academic teachings, and practical business realities, NXT Level Holdings LLC affirms that the term "entrepreneurship," as used in its trademark registration and related business activities, expressly includes all enumerated consulting services listed in International Class 35. The broad and inclusive nature of entrepreneurship inherently embraces expert consulting services in economics, accounting, marketing, business management, brand imagery, corporate image, direct marketing, personnel management, and all related professional business consulting domains.

Response to Request Number 8.

NXT Level Holdings LLC utilizes a comprehensive and strategically integrated array of channels of trade to conduct and grow its business operations across the consulting, marketing, and brand development sectors. As a business-to-business (B2B) enterprise, the company deploys a professional sales team responsible for identifying, targeting, and engaging prospective clients through structured outreach, relationship-building, and tailored business proposals, thereby facilitating the initiation of new service engagements and long-term partnerships. In parallel, the firm benefits significantly from client and industry referrals, which are generated through established credibility, prior successful engagements, and a sustained presence in its target markets. These referrals often serve as high-conversion entry points for new client relationships, particularly in high-trust professional networks. NXT Level Holdings also captures a steady stream of inbound business inquiries resulting from its market reputation, thought leadership activities, and visibility in key sectors. These inquiries are supported and supplemented by a strategically developed digital presence designed to educate prospective clients on the firm's capabilities and convert interest into formal engagements through structured intake and qualification processes. Additionally, the firm maintains and leverages professional relationships with other organizations, including service providers, agencies, and industry specialists, allowing for cross-referrals, joint offerings, and collaborative delivery models that expand both reach and value to the client. Together, these trade channels operate in concert to support the firm's client acquisition, engagement, and retention efforts, ensuring sustained growth and alignment with evolving market demands.

Response to Request Number 9.

NXT Level Holdings LLC hereby affirms that it has provided the requested documentation and information responsive to Discovery Request Number 9 as part of its initial disclosures, in accordance with the applicable rules of civil procedure governing discovery obligations. Specifically, the materials and/or information identified in Request Number 9 were included in the initial disclosure package served upon the requesting party and were produced in good faith, with the intent to comply fully with the discovery requirements and timelines set forth by the court or agreed to by the parties. Said disclosures were made with sufficient specificity and completeness to satisfy the scope of Request Number 9, and NXT Level Holdings LLC maintains that the documents and communications previously furnished are responsive to the subject matter of the request. If there is any perceived deficiency or ambiguity concerning the sufficiency of the disclosure relative to Request Number 9, NXT Level Holdings LLC remains open to reasonable clarification or supplementation discussions in accordance with applicable procedural standards, but at this time affirms that it has met its discovery obligations with respect to that specific request.

Response to Request Number 10.

NXT Level Holdings LLC affirms that it has satisfied its obligations with respect to Discovery Request Number 10 by producing the relevant information and documentation as part of its initial disclosures. The materials provided were identified and disclosed in accordance with the governing rules of civil procedure, and were included in the initial disclosure packet served on the opposing party within the applicable deadlines. These disclosures were made in good faith and were intended to be fully responsive to the subject matter set forth in Request Number 10. NXT Level Holdings LLC asserts that the content already produced addresses the scope and substance of the request, and no further production is presently required. Should any concerns arise regarding the adequacy or clarity of the response, the company is willing to engage in good-faith discussions to resolve any issues; however, it maintains that it has complied with its discovery responsibilities concerning Request Number 10.

Response to Request Number 11.

NXT Level Holdings LLC hereby affirms that each client engagement for its consulting services has been initiated and executed through a unique, case-specific process tailored to the individual needs, circumstances, and context of the prospective client. At no time has the company employed a standardized or uniform onboarding procedure applicable across all clients. Rather, the method of client acquisition and engagement has consistently varied depending on the nature of the relationship, the scope of services requested, the industry or sector in which the client operates, and the specific objectives of the consulting engagement. A significant portion of these engagements originate from long-standing business relationships, industry referrals, professional networks, and other forms of direct relationship-driven outreach, rather than generalized public marketing or unsolicited solicitations. In nearly all such instances, prior to entering into a formal agreement or receiving any payment from the client, NXT Level Holdings LLC undertakes a preliminary consultation and discovery process, during which it evaluates the client's needs and objectives and prepares a customized proposal outlining the recommended strategy, scope of work, and value to be delivered. These proposals are drafted at the firm's own initiative and expense as part of its commitment to providing tailored, high-value consulting solutions and ensuring mutual alignment prior to the execution of any binding contract. Only after this stage—upon mutual agreement on terms and deliverables—does the client proceed to sign a contract and remit the initial payment. This procedural variability underscores the firm’s bespoke approach to client service and reaffirms that no single method governs how clients are onboarded, further reflecting NXT Level Holdings LLC’s commitment to flexibility, relationship-driven business practices, and the customization of its consulting offerings.

Response to Request Number 12.

NXT Level Holdings LLC affirms that, in the regular course of business and in accordance with its standard financial and administrative procedures, all clients who engage the company for consulting or related professional services are issued a formal invoice that clearly sets forth the scope of services rendered, applicable fees, and the corresponding remittance terms. Each invoice includes detailed instructions for payment, specifically providing the client with the necessary Automated Clearing House (ACH) payment information required to initiate an electronic funds transfer. This includes, but is not limited to, the relevant banking institution details, account number, routing number, and any reference information necessary to ensure accurate and timely allocation of funds. Clients are informed of these payment procedures at the outset of the engagement, and NXT Level Holdings LLC confirms that payments are not accepted in cash, by check, or through other informal methods; rather, all payments are made electronically via ACH transfer unless otherwise agreed upon in writing under exceptional circumstances. This practice ensures a secure, traceable, and consistent payment process that complies with standard financial controls and accounting principles. Furthermore, NXT Level Holdings LLC affirms that all such invoices, including those containing the applicable ACH payment instructions, have been provided as part of its initial disclosures in satisfaction of its discovery obligations.

Response to Request Number 13.

NXT Level Holdings LLC states that its billing practices are determined on a case-by-case basis, depending on the specific facts and circumstances of each client engagement. Billing terms, including rates, payment structures, and the scope of billable services, are not standardized across all clients but are tailored to the individual needs, objectives, and negotiated terms relevant to each particular matter.

NXT Level Holdings LLC further states that the documents previously produced in its initial disclosures, including but not limited to copies of paid invoices, are true, complete, and accurate, and are sufficient to satisfy the opposing party's request as it pertains to billing and payment information. These documents accurately reflect the amounts invoiced and paid, and they represent the responsive financial records for the engagements in question.

To date, no material deficiencies in those disclosures have been identified or brought to the attention of NXT Level Holdings LLC. NXT Level Holdings LLC reserves the right to amend or supplement this response as required by the applicable rules of civil procedure or upon discovery of additional responsive information.

Response to Request Number 14.

NXT Level Holdings LLC states that it has already produced documentation, including **paid invoices from large, national clients**, which detail the services rendered, corresponding charges, and payment confirmations. These documents provide a clear and accurate representation of the nature, scope, and value of NXT Level Holdings LLC's commercial activities as they pertain to the matters at issue in this litigation.

NXT Level Holdings LLC further objects to any request seeking disclosure of its **annual sales figures**, on the grounds that such information is **not relevant to any party's claims or defenses** and is **not proportional to the needs of the case**, as required under Rule 26(b)(1) of the Federal Rules of Civil Procedure (or applicable state equivalent). The disclosure of company-wide annual sales would be overly broad, encompass revenue unrelated to the dispute, and would not provide any material information beyond what is already reflected in the paid invoices that have been produced.

Moreover, NXT Level Holdings LLC considers its annual sales data to be **confidential and commercially sensitive**, and its disclosure would impose an undue burden without offering probative value in resolving the claims or defenses in this matter. Should the opposing party contend otherwise, NXT Level Holdings LLC is willing to meet and confer regarding the scope and relevance of the request; however, as presently framed, the request is objectionable and no further responsive documents will be produced at this time.

Response to Request Number 15.

NXT Level Holdings LLC states that it has **not filed to register as an investment adviser** with the **U.S. Securities and Exchange Commission (SEC)** or with any **state securities regulatory authority**. Such registration has not been required in light of the nature of NXT Level Holdings LLC's business activities, which do not fall within the statutory definitions necessitating investment adviser registration under federal or state law.

NXT Level Holdings LLC conducts business in a lawful and fully compliant manner, offering services that include business strategy, operational consulting, and advisory support to its clients—none of which constitute investment advisory services as defined under the **Investment Advisers Act of 1940**, or its state law counterparts. The company does not hold itself out as an investment adviser and does not engage in regulated investment management or securities advisory services that would trigger a registration obligation.

Despite the absence of registration with the SEC or state securities authorities, NXT Level Holdings LLC continues to operate its business in the ordinary course, providing high-level consulting and strategic services to a diverse base of clients, including national organizations. Its operations remain unaffected by the lack of registration, as its business model does not require it. The company remains in good standing and compliant with all legal and regulatory requirements applicable to the services it offers.

Accordingly, the lack of registration as an investment adviser does not impair or restrict NXT Level Holdings LLC's ability to conduct business, form client relationships, or provide value-driven services within the scope of its stated practice areas.

NXT Level Holdings LLC reserves all rights under applicable discovery rules and objects to any implication that registration as an investment adviser is a prerequisite to its lawful business operations, which are distinct from activities regulated under federal or state securities laws.

Response to Request Number 16.

NXT Level Holdings LLC has conducted a reasonable and diligent inquiry into the subject matter of Request for Production No. 16. Based on that review, NXT Level Holdings LLC states that the information and/or documents sought in this request are not applicable to its business operations, corporate structure, or to any of the transactions, relationships, or conduct at issue in this matter.

More specifically, the request appears to seek information concerning categories of documents or activity that do not relate to NXT Level Holdings LLC's services, regulatory status, or client engagements. At no time has NXT Level Holdings LLC engaged in the type of conduct, maintained the kind of records, or operated in a manner that would render the requested information relevant or applicable. Accordingly, NXT Level Holdings LLC does not possess any responsive documents because the subject matter of the request simply does not pertain to the company's activities or position in this litigation.

To the extent clarification is needed, NXT Level Holdings LLC affirms that it has not undertaken the actions, held the status, or engaged in the practices that are implied or presupposed by the language of Request for Production No. 16. Therefore, there is no documentation to provide in response.

Should the requesting party believe there has been a misunderstanding regarding the scope or intent of this request, NXT Level Holdings LLC remains willing to meet and confer in good faith to discuss any clarification. However, based on the plain reading and understood context of the request, the company maintains that the information sought is not applicable and no responsive materials exist.

NXT Level Holdings LLC will supplement this response as required under the applicable rules of civil procedure should any responsive information later become known.

Response to Request Number 17.

NXT Level Holdings LLC, after conducting a reasonable and good faith review of its records and operations, states that the subject matter of Request for Production No. 17 is not applicable to the company. The information and/or documents requested do not pertain to the services provided, business model, regulatory status, or transactional history of NXT Level Holdings LLC, nor are they relevant to any issue raised in this proceeding.

Based on the nature of the request, it appears to seek materials that relate to activities or classifications that do not apply to NXT Level Holdings LLC. Specifically, the company has not engaged in the conduct, maintained the status, or participated in the types of transactions or relationships contemplated by Request for Production No. 17. As such, NXT Level Holdings LLC has no responsive documents in its possession, custody, or control because the underlying premise of the request does not align with the company's operations or role in this matter.

Accordingly, there is nothing responsive to produce, and NXT Level Holdings LLC affirms that the subject of Request for Production No. 17 falls outside the scope of the company's business practices and is not relevant to any of the claims or defenses at issue in this litigation.

Should clarification of the request be necessary, NXT Level Holdings LLC is willing to meet and confer in good faith. However, as it currently stands, the request is not applicable, and no responsive documents exist.

NXT Level Holdings LLC reserves the right to supplement or amend this response should any relevant information become known during the course of discovery, in accordance with the applicable rules of procedure.

Response to Request Number 18.

NXT Level Holdings LLC has conducted a good faith and reasonable inquiry in response to Request for Production No. 18 and states as follows:

To the extent this request seeks documents or information relating to the incorporation, creation, adoption, or use of NXT Level Holdings LLC's mark, such information is not applicable to any claim or defense presently at issue in this matter. Specifically, NXT Level Holdings LLC notes that the Second Affirmative Defense asserted by the opposing party—on which this request appears to be based—has been stricken from the record by prior order of the Court. As such, the legal theories and factual assertions underlying that defense are no longer part of the pleadings and are not relevant to the scope of discovery.

As a result, any discovery requests seeking documents or communications relating to NXT Level Holdings LLC's incorporation of its mark, its branding decisions, or its trademark usage history, which would have only been potentially relevant to that now-dismissed defense, are no longer within the proper bounds of discovery under Rule 26(b)(1) of the Federal Rules of Civil Procedure (or applicable state equivalent). That rule permits discovery only of information that is relevant to any party's claims or defenses and proportional to the needs of the case. With the Second Affirmative Defense no longer at issue, the discovery sought in Request No. 18 falls outside that scope.

Furthermore, NXT Level Holdings LLC maintains that the creation and lawful use of its mark are not in dispute in this action, and the company's trademark usage has not been placed at issue by any remaining claims or defenses. Consequently, the information requested is not applicable to the matters presently before the Court, and NXT Level Holdings LLC does not possess responsive materials relevant to any surviving issue in the case.

To the extent clarification is needed, NXT Level Holdings LLC remains willing to meet and confer in good faith. However, as the record currently stands, and in light of the Court's order striking the Second Affirmative Defense, the information sought in Request for Production No. 18 is no longer relevant or applicable, and NXT Level Holdings LLC respectfully declines to produce documents in response.

NXT Level Holdings LLC reserves the right to supplement this response if the pleadings change or if further clarification is provided through the discovery process or by order of the Court.

Response to Request Number 19.

NXT Level Holdings LLC, following a diligent and good faith inquiry, states that it does not have any documents or information responsive to Request for Production No. 19. The subject matter of this request does not align with the business activities, records, or communications of NXT Level Holdings LLC, nor does it pertain to any transactions, engagements, or factual matters in which the company has participated.

To ensure a complete response, NXT Level Holdings LLC undertook a reasonable investigation of its internal records, communications, and personnel. Based on that review, the company confirms that it has not created, received, maintained, or otherwise possessed documents or data falling within the scope of Request No. 19. Accordingly, there is nothing responsive to produce in response to this request.

NXT Level Holdings LLC further states that, based on the claims and defenses currently asserted in this litigation, the subject matter of Request No. 19 appears to be outside the scope of the company's knowledge or involvement, and does not pertain to any of the relevant issues in dispute. The absence of responsive materials is not due to a failure to preserve records, but rather because the company has never engaged in, been a party to, or maintained documents concerning the subject described in the request.

If the requesting party believes this response is based on a misinterpretation of the request's scope or intent, NXT Level Holdings LLC is willing to meet and confer in good faith to clarify the parameters of the request. However, as currently understood, NXT Level Holdings LLC does not possess any information or documentation responsive to Request for Production No. 19.

This response is made in accordance with applicable rules of civil procedure, and NXT Level Holdings LLC reserves the right to amend or supplement this statement should new information become available during the course of discovery.

Response to Request Number 20.

The services offered under the NXT LEVEL mark represent a direct extension of the cumulative experience, training, and industry knowledge of the founders and affiliated professionals of NXT Level Holdings. These services were not conceived in a vacuum but are instead the outcome of sustained involvement in business operations, entrepreneurship, strategic growth initiatives, and advisory roles across various sectors.

Current service offerings under the NXT LEVEL brand include, but are not limited to: business consulting, operational strategy, digital brand development, growth planning, and market positioning. The formation of these services has been driven by a deep familiarity with the challenges faced by emerging and scaling businesses, as well as a clear understanding of the solutions that produce tangible results. These offerings reflect a commitment to advancing business performance by leveraging practical experience rather than relying solely on theoretical models.

The team behind NXT Level Holdings comprises individuals with extensive professional backgrounds in business development, executive leadership, venture strategy, marketing, and project execution. Many hold advanced degrees in business or related disciplines and have served in leadership capacities across both startups and established companies. This range of experience enables a tailored and results-oriented approach to service delivery, one that is deeply informed by real-world application.

The NXT LEVEL mark is used in connection with services that are actively marketed through digital platforms including the company’s website, social media presence, content marketing, and strategic outreach initiatives. Marketing efforts emphasize the firm's unique positioning at the intersection of innovation, execution, and business insight. The mark signifies not only a brand identity but a philosophy of continuous improvement, high performance, and goal-oriented client engagement.

This response is made based on current knowledge, information, and belief, and NXT Level Holdings reserves the right to amend or supplement this response as additional facts become known.

Response to Request Number 21.

The only domain name currently owned and controlled in connection with the NXT LEVEL mark is **nxtlevelholdings.com**. This domain was registered and is maintained through an account held directly by NXT Level Holdings with **GoDaddy.com, LLC**, which serves as the registrar of record.

No other domain names or URLs are leased, licensed, owned, or operated in connection with the NXT LEVEL brand at this time. The domain nxtlevelholdings.com serves as the sole digital presence directly associated with the services offered under the NXT LEVEL mark. It is used for general information, brand identity, digital marketing, and communication purposes relevant to the business activities and consulting services provided.

The domain was registered in good faith and has been actively managed and secured through the GoDaddy account since the time of registration. The ownership and use of this domain reflect the ongoing commitment to establishing and maintaining a professional online identity that aligns with the brand's core service offerings and values.

Response to Request Number 22.

NXT Level Holdings maintains and actively manages multiple social media accounts that are used in connection with the NXT LEVEL mark. These accounts serve as platforms for brand promotion, community engagement, and public-facing representation of the firm's services, philosophy, and identity. The following accounts are currently owned and operated:

1. **Instagram**
    - Handle: **@nxtlevelh**
    - Handle: **@nxtlevelnil**
    - These accounts are used for outreach, branding, and content related to business consulting and Name, Image, and Likeness (NIL) representation, respectively.
2. **LinkedIn**
    - Page Name: **NXT Level Holdings**
    - This LinkedIn company page is used to establish and reinforce the professional identity of NXT Level Holdings, promote thought leadership, and share updates regarding the firm's business activities.
3. **TikTok**
    - Handle: **@nxtlevelnil**
    - This account is used to engage audiences with creative content focused on the NIL space and other services offered under the NXT LEVEL brand.

Each of these accounts is directly controlled by NXT Level Holdings through secure login credentials and was created with the intention of supporting business and branding efforts aligned with the NXT LEVEL mark. While the exact creation dates vary, all were established in good faith and are actively maintained to support ongoing business operations.

Response to Request Number 23.

All current examples, samples, and representations of marketing, advertising, and promotional materials used in connection with the NXT LEVEL mark are publicly accessible through the channels previously identified in Responses to Discovery Requests Nos. 20–22. Specifically, such materials can be found on:

- The official website: **www.nxtlevelholdings.com**
- Instagram accounts: **@nxtlevelh** and **@nxtlevelnil**
- TikTok account: **@nxtlevelnil**
- LinkedIn company page: **NXT Level Holdings**

These platforms collectively house digital content including, but not limited to, brand messaging, service descriptions, visual media, client engagement initiatives, and other promotional or advertising content used in the ordinary course of business. All marketing materials used under the NXT LEVEL mark are created, published, and archived through these official channels.

To the extent that additional non-public materials (e.g., internal pitch decks or draft content) exist and are responsive, a reasonable search has been conducted, and any such materials are consistent in tone and messaging with the publicly available examples referenced above. NXT Level Holdings reserves the right to supplement this response should further responsive materials be identified during the course of discovery.

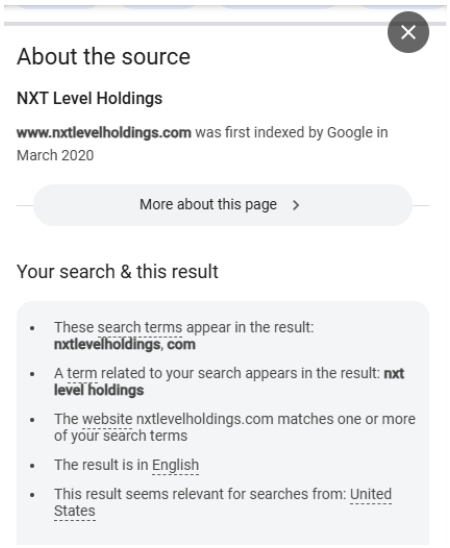
Response to Request Number 24.

The services offered under the NXT LEVEL mark were first launched and made available to the public in or around March of 2020. This initial launch included the public rollout of the domain nxtlevelholdings.com, which has served since that time as the primary online platform through which the firm's consulting and brand development services have been described and marketed.

Verification of the website's operational status as of March 2020 is further supported by third-party data, including the Google index, which records historical snapshots and crawl data evidencing that nxtlevelholdings.com was active and discoverable online by that time. The website has remained continuously accessible and in active use in connection with the NXT LEVEL mark since its launch.

Additional support for the commencement of service offerings includes the contemporaneous establishment of related social media accounts (referenced in Response No. 22) and internal business records showing branding, client outreach, and promotional efforts beginning in early 2020.

NXT Level Holdings reserves the right to supplement this response with archival screenshots, website analytics, or other documentary evidence, should they become necessary or relevant during the course of this proceeding.


About the source
NXT Level Holdings
www.nxtlevelholdings.com was first indexed by Google in March 2020
More about this page
Your search & this result
These search terms appear in the result: nxtlevelholdings, com
A term related to your search appears in the result: nxt level holdings
The website nxtlevelholdings.com matches one or more of your search terms
The result is in English
This result seems relevant for searches from: United States

Response to Request Number 25.

The information requested in this discovery request has already been addressed and made available through prior responses and the initial disclosures served in accordance with the TTAB's rules and scheduling order. Specifically, the individuals identified in NXT Level Holdings' initial disclosures possess relevant knowledge concerning the adoption, use, promotion, and offering of services under the NXT LEVEL mark.

These individuals include current personnel and principals of the firm with direct involvement in brand development, service delivery, client engagement, and marketing strategy—each of whom has firsthand knowledge of the use and operation of the NXT LEVEL mark in commerce since its inception.

To the extent further identification of individuals becomes necessary or additional persons with relevant knowledge are identified during the course of this proceeding, NXT Level Holdings reserves the right to supplement or amend this response in accordance with applicable rules.

Response to Request Number 26.

The level of direct expenditures made by NXT Level Holdings on traditional marketing and advertising under the NXT LEVEL mark has been minimal. The business has not relied heavily on paid advertising or large-scale promotional campaigns. Instead, growth and client acquisition have been driven by a combination of extensive industry knowledge, professional expertise, established networks, proven performance, and targeted outreach through personal and professional channels.

To date, any expenditures made in connection with marketing or advertising have been limited and incidental—for example, costs associated with maintaining the website domain (nxtlevelholdings.com), creating occasional digital content for social media platforms, and nominal design or branding support. These costs do not constitute a material percentage of business operations and are not tracked as standalone marketing budgets.

The firm's visibility and continued success are largely attributable to its reputation, credibility, and consistent delivery of high-value services, which have organically generated referrals and repeat business without the need for significant advertising investment.

NXT Level Holdings reserves the right to supplement this response with further information or documentation should it become available or necessary in the course of discovery.

Response to Request Number 27.

Evidence of use of the NXT LEVEL mark in commerce includes—but is not limited to—published press releases and media coverage confirming professional engagements and services rendered under the NXT LEVEL brand. Examples include the following publicly available articles and announcements:

1. **PR Newswire (March 2023)**:
   Titled *"New Meta Entertainment, Parent Company of Esports Organization Dignitas, Signs NXT Level Sports & Entertainment, a Division of NXT Level Holdings, as Their Partnerships Consultant and Sales Agency of Record"*, this press release publicly confirms NXT Level Holdings' role in a commercial agreement with a high-profile esports organization.
   Link: https://www.prnewswire.com/news-releases/new-meta-entertainment-parent-company-of-esports-organization-dignitas-signs-nxt-level-sports-and-entertainment-a-division-of-nxt-level-holdings-as-their-partnerships-consultant-and-sales-agency-of-record-301766082.html

2. **Monmouth University News (March 27, 2023)**:
   Coverage of NXT Level Holdings' involvement in Monmouth University's N.I.L. Speaker Series, evidencing the company's active participation and recognition in collegiate Name, Image, and Likeness (NIL) education and consulting initiatives.
   Link: https://monmouthhawks.com/news/2023/3/27/athletics-monmouth-to-host-n-i-l-speaker-series-presented-by-northwestern-mutual

These articles document bona fide commercial use of the NXT LEVEL mark in connection with consulting, partnership management, and business advisory services across the entertainment and collegiate athletics sectors.

Additional materials related to these and similar engagements—including contracts, proposals, and internal documentation—may contain confidential business information and will be reviewed for relevance and responsiveness. NXT Level Holdings reserves the right to supplement this response with such documents in accordance with any protective order in place or as otherwise required under applicable discovery rules.

Response to Request Number 28.

The requested documents and information concerning marketing plans, strategies, budgets, and future promotional activities in connection with the NXT LEVEL mark are confidential and constitute proprietary business information. Disclosure of such materials could cause competitive harm and undermine the strategic positioning of NXT Level Holdings in the marketplace.

Accordingly, NXT Level Holdings objects to producing such documents on the grounds of confidentiality and trade secret protection. Should the requesting party seek access to such materials, NXT Level Holdings is willing to consider providing appropriate confidentiality protections, including entry into a mutually agreeable protective order governing the use and dissemination of the information.

NXT Level Holdings reserves the right to supplement or amend this response as appropriate and in accordance with applicable rules and any protective order that may be entered.

Response to Request Number 29.

The requested documents and information regarding business plans, financial projections, and internal forecasts concerning the NXT LEVEL mark are confidential and contain proprietary commercial information. Disclosure of such information could cause competitive harm and undermine NXT Level Holdings' business interests.

Accordingly, NXT Level Holdings objects to the production of these materials on the grounds of confidentiality and trade secret protection. Should the requesting party seek access to these documents, NXT Level Holdings is willing to consider providing such information under appropriate confidentiality protections, including a mutually agreeable protective order limiting use and disclosure.

NXT Level Holdings reserves the right to supplement or amend this response as appropriate and consistent with applicable rules and any protective order that may be entered.

Response to Request Number 30.

All documents related to the trademark application and prosecution for the NXT LEVEL mark, including filings, correspondence, office actions, and related materials, are publicly available and may be accessed online through the United States Patent and Trademark Office (USPTO) Trademark Status & Document Retrieval (TSDR) system. The relevant application number is **90866595**.

The requesting party is directed to review all such documents at the USPTO website, where the full prosecution history and associated filings are maintained in an official and updated manner.

NXT Level Holdings reserves the right to supplement this response should additional non-public responsive documents be identified or required during the course of discovery.

Response to Request Number 31.

All documents responsive to this and prior discovery requests that have not been previously produced are compiled and provided in a separate file or production set accompanying this response. This production includes relevant materials in electronic format, organized and labeled to correspond with the applicable requests.

NXT Level Holdings reserves the right to supplement or amend this production should additional responsive documents be discovered or become available.

Response to Request Number 32.

This request is not applicable and requires no response, as the Second Affirmative Defense relating to the subject matter of this request was stricken from the record by order of the Board. Accordingly, there is no basis for further inquiry or production in connection with this request.

NXT Level Holdings reserves all rights to object to and refuse production of documents or information beyond the scope of the operative pleadings.

Response to Request Number 33.

All agreements, contracts, or understandings relating to the promotion, marketing, or endorsement of NXT Level Holdings, LLC and the NXT LEVEL mark are confidential and constitute proprietary business information. These agreements contain sensitive commercial terms, strategic arrangements, and negotiated conditions that are not publicly disclosed. Disclosure of such agreements could cause competitive harm and undermine the business interests of NXT Level Holdings.

NXT Level Holdings has implemented reasonable and customary measures to maintain the confidentiality of such agreements, including confidentiality clauses and nondisclosure provisions that bind all parties involved. The confidentiality of these agreements safeguards trade secrets and proprietary strategies developed through significant investment of time, effort, and resources.

To protect the sensitive nature of these materials, NXT Level Holdings is prepared to provide access to relevant, non-privileged agreements under the terms of a mutually agreeable protective order designed to limit use and disclosure solely to this proceeding.

NXT Level Holdings may supplement this response as additional agreements are identified or circumstances warrant.

Response to Request Number 34.

All licensing agreements, contracts, or understandings relating to the NXT LEVEL mark are confidential and constitute proprietary business information. These agreements contain sensitive commercial terms, negotiated conditions, and strategic arrangements that are maintained in strict confidence. Disclosure of these agreements could result in competitive harm and compromise the business interests of NXT Level Holdings.

NXT Level Holdings has taken customary and reasonable steps to preserve the confidentiality of these licensing agreements, including the incorporation of confidentiality clauses and nondisclosure obligations binding all parties to the agreements. Maintaining the confidentiality of these documents protects valuable trade secrets and proprietary business strategies developed through substantial investment.

Accordingly, any / all licensing agreements or agreements currently being negotiated, are not produced due to their confidential nature

Response to Request Number 35.

All information responsive to Discovery Request No. 35 has been previously represented and produced in response to Discovery Request No. 31. Specifically, the documents provided therein include identification of all businesses, entities, and divisions associated with the use of the NXT LEVEL mark.

Among these, NXT Level Holdings, LLC confirms that three distinct businesses previously operating under the NXT LEVEL mark have ceased use of the mark. Details regarding these businesses, including relevant timelines and circumstances of cessation, are included in the previously produced documentation.

NXT Level Holdings reserves the right to supplement this response should any additional relevant information become available.

Response to Request Number 36.

NXT Level Holdings, LLC responds that all information and documentation responsive to this request—specifically regarding its awareness of any third-party use of marks or trade names similar to the NXT LEVEL mark—has already been addressed and disclosed in the course of its initial disclosures and in prior responses served during this proceeding.

As previously stated, NXT Level Holdings, LLC has acknowledged limited instances in which it became aware of other entities using similar names or variations of the phrase "NXT LEVEL" in connection with unrelated services. Those instances have been disclosed with relevant contextual details, including the identity of the parties, the nature of the potentially overlapping usage, and any resulting action or internal consideration by NXT Level Holdings. In particular, the company identified three entities that, at various points in time, used names or branding that could be construed as similar in appearance or sound to the NXT LEVEL mark. However, to the best of NXT Level Holdings' knowledge, those businesses have since ceased use of the similar branding or rebranded entirely.

To the extent that NXT Level Holdings became aware of such uses, the company evaluated each situation in good faith and within the context of its brand strategy, business operations, and legal rights. In no instance has there been any substantiated infringement, confusion in the marketplace, or formal dispute requiring enforcement action. Any internal communications or records related to such evaluation—where responsive—were reviewed and either previously produced or determined to be non-material or duplicative of what has already been provided.

Furthermore, this request is duplicative of prior interrogatories and production requests to which NXT Level Holdings has already responded, including those seeking information about the adoption and use of the NXT LEVEL mark, any known conflicts, or awareness of potentially confusing uses by third parties.

To ensure completeness, NXT Level Holdings conducted a reasonable search of its records and communications as part of its discovery obligations and has already disclosed what it believes to be the totality of relevant information responsive to this line of inquiry. Should any additional responsive information be identified during the ongoing review of materials or through the natural progression of discovery, NXT Level Holdings will supplement its response accordingly and in a timely manner, as required under applicable rules.

At this time, NXT Level Holdings believes that the matter of prior knowledge of third-party use of similar marks has been fully and accurately addressed in prior submissions.

Response to Request Number 37.

NXT Level Holdings, LLC responds that all information and documentation responsive to this request—specifically relating to any claims, objections, complaints, challenges, or inquiries made or received regarding third-party marks that could potentially conflict with the NXT LEVEL mark—have already been disclosed in earlier discovery responses and in NXT Level Holdings' initial disclosures.

As previously detailed, NXT Level Holdings has not pursued any formal legal action, opposition, or trademark enforcement proceeding against third parties using similar marks, nor has it received any formal challenges or complaints from others claiming a conflict with its use of the NXT LEVEL mark. Any informal inquiries, observations, or internal consideration of third-party use have been disclosed to the extent they are known, relevant, and non-privileged. These include limited instances in which NXT Level Holdings became aware of other entities using similar naming conventions—none of which escalated to formal disputes or required legal proceedings.

To ensure compliance with its discovery obligations, NXT Level Holdings conducted a reasonable and good faith review of its records and communications. As a result of this search, all non-privileged, responsive information concerning such matters has already been produced or summarized in prior responses, including information identifying three entities that previously used similar marks and have since ceased such use.

NXT Level Holdings affirms that it has provided a complete account of any claims, objections, or communications regarding conflicting marks to the best of its knowledge and recordkeeping. Should any additional responsive material be identified through the continued course of discovery or internal review, NXT Level Holdings will supplement this response in accordance with applicable rules.

At this time, NXT Level Holdings believes it has fully and faithfully responded to the substance of this request through prior disclosures and responses.

Response to Request Number 38.

NXT Level Holdings, LLC responds that any and all information, documentation, or communications relating to the settlement, resolution, or agreement of any claims, objections, complaints, challenges, or inquiries previously referenced in response to Request No. 37 are confidential in nature. To the extent any such settlements or informal resolutions exist, they involve third parties not connected to this proceeding and relate to matters that are entirely separate from the issues in this cancellation action.

These agreements—if any—were not the result of formal disputes or litigation, nor did they involve any admission of conflict or liability. Rather, they represent discrete business decisions, private negotiations, or mutual understandings between NXT Level Holdings and third parties with respect to distinct commercial circumstances. They contain confidential commercial terms and reflect sensitive business considerations that are not reasonably calculated to lead to the discovery of admissible evidence in this proceeding.

The subject matter of these communications or resolutions—if they occurred at all—has no bearing on the claims or defenses at issue in this TTAB matter. Moreover, these materials, even if they exist, are protected as confidential and proprietary, and involve parties and contexts that fall outside the scope of this cancellation action.

Accordingly, NXT Level Holdings respectfully declines to produce such documents and maintains that the information sought is not relevant or material to the issues presented in this case.

NXT Level Holdings reserves the right to supplement or clarify this response as discovery continues or should new information become available.

Response to Request Number 39.

NXT Level Holdings, LLC responds that all information and documentation responsive to this request—specifically concerning any change in name, branding, marketing, business structure, or commercial activity by third parties in response to any communication from NXT Level Holdings—has already been disclosed in previous discovery responses and initial disclosures.

As previously detailed, NXT Level Holdings became aware of a limited number of third-party businesses that were using marks or branding similar to "NXT LEVEL." In those cases, whether through direct or indirect communication, such businesses subsequently ceased use of the potentially conflicting branding, voluntarily rebranded, or otherwise adjusted their commercial presentation. These actions were not the result of litigation or formal settlement, but rather informal decisions made independently by the third parties, as previously outlined in response to earlier requests.

The details of those businesses and the nature of their changes have been previously provided in response to Discovery Requests Nos. 31, 35, and 37, and are not further documented beyond the materials already produced. NXT Level Holdings has no additional responsive documents beyond those already submitted in good faith during the course of this proceeding.

NXT Level Holdings confirms that it has made diligent efforts to ensure that its disclosures and document productions are complete and accurate with respect to this topic. Should additional responsive information become available or newly relevant, NXT Level Holdings will supplement this response in accordance with applicable TTAB rules.

Response to Request Number 40.

NXT Level Holdings, LLC responds that all information, allegations, and supporting contentions related to its claim of likelihood of confusion between its NXT LEVEL mark and the Registrant's mark have been fully detailed in the original Petition to Cancel filed with the United States Patent and Trademark Office Trademark Trial and Appeal Board (TTAB). This pleading sets forth the factual and legal basis for NXT Level Holdings' position, including but not limited to its priority of use, the similarity of the marks, the overlap in channels of trade and consumer base, and the resulting likelihood of consumer confusion.

Further, on April 4, 2025, the USPTO Interlocutory Attorney issued an order upholding NXT Level Holdings' claims, affirming that the allegations in the Petition to Cancel were sufficient to proceed and stated a valid cause of action under the Lanham Act. This order confirms the legal sufficiency and substantive grounding of NXT Level Holdings' confusion-based claims.

To the extent that this discovery request seeks additional documentation beyond the Petition to Cancel and the TTAB's April 4th ruling, NXT Level Holdings states that all responsive documents or information presently available and relevant to the likelihood of confusion claim are either already of record in this proceeding or have been produced, directly or indirectly, in prior discovery responses.

Should additional non-privileged evidence or supporting materials be developed or identified in preparation for trial, NXT Level Holdings will produce such materials in accordance with applicable TTAB discovery rules and deadlines.

Response to Request Number 41.

NXT Level Holdings, LLC responds that there were no internal or proprietary documents relied upon in the drafting and filing of its Petition to Cancel. The Petition was prepared based entirely on information that was compiled from publicly available sources, including—but not limited to—USPTO trademark records, online business and brand references, social media content, and publicly accessible representations made by the Registrant regarding use of the mark at issue.

At the time of drafting, NXT Level Holdings undertook a thorough review of publicly sourced data in order to assess the similarities between the marks, evaluate the likelihood of consumer confusion, and determine the basis for priority and standing. These public materials informed the structure and content of the Petition to Cancel, but no formal internal analysis, proprietary documents, or private business records were generated or utilized in that process.

Accordingly, there are no separate or additional documents to produce in response to this request. All relevant factual allegations and legal claims appear in the Petition to Cancel, as filed and now of record in this proceeding.

NXT Level Holdings reserves the right to supplement this response should any relevant material be identified during the course of continued discovery or trial preparation.

Response to Request Number 42.

NXT Level Holdings, LLC responds that, to its knowledge, there are no documents in its possession responsive to this request. Our businesses and services, as operated under the NXT LEVEL mark, do not currently overlap with the specific commercial activities conducted by the Respondent under the mark at issue. Moreover, we are not asserting that our mark is currently under challenge in this proceeding; rather, we are the Petitioner challenging the registration and use of the Respondent's mark.

This discovery request is therefore not applicable in the context of this cancellation proceeding. The burden of proving non-confusion or legitimacy of use lies with the Respondent. NXT Level Holdings' focus in this matter remains the protection of its rights in the NXT LEVEL mark as applied to the services it offers, which are clearly outlined in its trademark application and registration records with the USPTO.

Specifically, NXT Level Holdings refers to its registered trademark application filed under Application No. 90866595, which includes services that overlap substantially and directly with those of Respondent, particularly those offered by Next Level Private, LLC. The services listed in that application include business consulting, brand development, sponsorship services, name-image-likeness (NIL) marketing, and various forms of strategic partnership management—many of which are identical or closely related to those promoted by Respondent.

As such, while there are no documents reflecting direct observations or inquiries from third parties on potential confusion or affiliation, NXT Level Holdings maintains that the services overlap meaningfully and the resulting consumer confusion is both likely and supported by the facts presented in the Petition to Cancel.

NXT Level Holdings reserves the right to supplement this response if any such documents or inquiries become known or are identified during the course of discovery.

Response to Request Number 43.

To the best of its knowledge and after a reasonable search, NXT Level Holdings, LLC states that the only legal matters or enforcement-related activities it has been involved in concerning the NXT LEVEL mark are limited to: (1) the issuance of demand or notice letters to three separate third-party entities whose use of similar marks was identified as potentially conflicting with NXT Level Holdings' rights, and (2) the present cancellation proceeding before the Trademark Trial and Appeal Board.

The communications to those third parties were informal and intended to resolve the matter amicably without the need for litigation. Those entities subsequently ceased use of the similar branding. The details of those matters, including identification of the entities and the nature of those communications, have already been disclosed in prior responses and are specifically referenced in our reply to Discovery Request No. 31, as well as in the accompanying documents produced in connection with that response.

Other than those instances and the current TTAB action, NXT Level Holdings has not been involved in any formal legal proceedings, disputes, or enforcement actions relating to the NXT LEVEL mark or any marks it believes to be confusingly similar.

Should any additional, relevant matters come to light during the course of this proceeding, NXT Level Holdings will amend or supplement this response as required under applicable rules.

Response to Request Number 44.

NXT Level Holdings, LLC responds that it provides services under the NXT LEVEL mark in all geographic regions of the United States, including but not limited to every state and major territory. The nature of NXT Level Holdings' business is inherently national in scope, as the company delivers consulting, brand development, NIL marketing, sponsorship negotiation, and business advisory services to clients across a wide range of industries and markets.

While NXT Level Holdings is physically headquartered in New Jersey, it regularly conducts business with national clients whose corporate offices span the East Coast, West Coast, and central regions of the United States. These services are delivered both virtually and in person, depending on the nature of each engagement.

Furthermore, NXT Level Holdings has already disclosed the existence of these client relationships in prior discovery responses, including but not limited to the production of invoices and supporting documentation that establish the company's commercial footprint across multiple states. These materials confirm that services have been rendered under the NXT LEVEL mark in connection with client operations nationwide.

Accordingly, NXT Level Holdings affirms that it conducts business across the entire United States, and that its commercial reach is not limited to any one state or locality. Should any additional state-specific details be requested or deemed necessary, NXT Level Holdings will provide further clarification consistent with its prior disclosures and in accordance with applicable rules.

Response to Request Number 45.

NXT Level Holdings, LLC responds that the nature and extent of any overlap between its business activities and those of the Respondent have been previously detailed, particularly in the context of its consulting services.

Specifically, NXT Level Holdings has provided information regarding its consulting relationship with one client, Marc Del Priore, which serves as a key example of the commercial overlap and competitive interaction at issue in this proceeding. Details concerning this client relationship, including the scope of services rendered and the nature of the consulting activities, were included in NXT Level Holdings' Initial Disclosures.

The consulting services provided to Mr. Del Priore illustrate how NXT Level Holdings operates within the relevant market sectors, demonstrating the intersecting channels of trade and customer base that underscore the likelihood of confusion between the marks at issue.

All documents and information related to this consulting engagement, as well as the broader business overlap between NXT Level Holdings and Respondent, have been previously disclosed and produced in this proceeding.

NXT Level Holdings reserves the right to supplement this response as discovery continues or if additional relevant materials come to light.

Response to Request Number 46.

NXT Level Holdings, LLC responds that the contention regarding the likelihood of confusion and potential harm to its mark arising from coexistence with Respondent's mark is well-supported by extensive expert analysis and authoritative sources, including publicly available institutional releases, industry whitepapers, consumer perception studies, and legal precedent reviews.

Numerous trademark law experts, marketing scholars, and intellectual property authorities have published analyses demonstrating that the use of two confusingly similar marks within overlapping or related commercial fields not only increases the likelihood of consumer confusion but also poses a significant risk of reputational damage to the senior mark holder. This reputational harm arises when consumers mistakenly associate inferior or unrelated goods or services with the senior mark, diluting its distinctiveness and undermining the goodwill it has established.

Examples of such expert proof include, but are not limited to:

- Studies published by the **International Trademark Association (INTA)** highlighting the impact of confusingly similar marks on consumer perceptions and brand value;
- Whitepapers from leading intellectual property law firms analyzing the detrimental effects of mark confusion on brand equity and the senior user's market position;
- Empirical research from marketing institutes showing that consumer confusion leads to diminished trust and brand dilution;
- Judicial opinions and TTAB decisions referencing these expert studies in support of findings on likelihood of confusion and reputational harm.

NXT Level Holdings relies on these publicly sourced, credible materials to substantiate its claims, many of which are widely recognized and cited in trademark litigation and administrative proceedings. These materials support the fundamental principle that coexistence of conflicting marks in related markets threatens both consumer clarity and the integrity of the senior user's brand.

NXT Level Holdings can produce specific copies or citations of such expert reports and institutional publications upon request or at trial, subject to applicable rules.

Response to Request Number 47.

NXT Level Holdings, LLC responds that its accounting and calculation of damages allegedly incurred as a result of Respondent's unauthorized use of the disputed mark are currently under active review and recalculation. The ongoing nature of this proceeding has materially delayed NXT Level Holdings' ability to fully assess and recover such damages, which continue to accumulate on a daily basis.

Given the protracted status of the legal matter, it is premature to provide a final or definitive calculation of damages at this stage. NXT Level Holdings intends to perform a comprehensive and updated assessment of all economic and reputational harm once the cancellation proceeding concludes, at which time the full extent of damages will be more accurately quantified.

NXT Level Holdings reserves the right to supplement its damages calculations and produce relevant supporting documentation when the recalculation is completed post-proceeding, in accordance with applicable procedural rules.

Response to Request Number 48.

NXT Level Holdings, LLC responds that its mark has been in active use in commerce for approximately **three (3) years** prior to the filing of the Petition to Cancel. Based on this timeframe, and consistent with its ongoing damages assessment, NXT Level Holdings estimates the total damages incurred as a result of Respondent's unauthorized use of the confusingly similar mark to be approximately **$480,000**.

Breaking this figure down over the course of three years (36 months), the damages amount to an average loss of approximately **$13,333.33 per month** ($480,000 ÷ 36 months). This monthly loss reflects the economic harm suffered by NXT Level Holdings through reduced revenue, lost business opportunities, diminished goodwill, and brand dilution directly attributable to the Respondent's mark being active in the marketplace during this period.

Thus, NXT Level Holdings has been incurring damages on a **monthly basis** since the Respondent's mark began to interfere with its business activities, representing a continuous financial impact that accumulates over time.

NXT Level Holdings continues to review and refine its damages calculations as this proceeding progresses and reserves the right to supplement this response with further supporting documentation and analysis when available.

Response to Request Number 50.

NXT Level Holdings, LLC states that it does not possess any information, documents, or knowledge responsive to this discovery request.

If additional information becomes available or is identified in the course of this proceeding, NXT Level Holdings will supplement its response accordingly.