

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

2016 JAN -6 P 3:22

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

MATTHEW H. SWYERS,)

Plaintiff,)

v.)

UNITED STATES PATENT AND TRADEMARK)
OFFICE)

and)

RONALD K. JAICKS)
7115 Devonshire Rd.)
Alexandria, VA 22307)

and)

GERARD A. TAYLOR)
815 King St., Apt. 5C)
Alexandria, VA 22314-3087)

and)

LEONARDO VILLARREAL ALEJANDRO)
Office of General Counsel)
600 Dulany Street)
Crystal Park Two, Suite 905)
Arlington, VA 22202)

and)

JANE DOE)

Defendants.)

CASE NO. 1:16 CV 15-LO/IDD

JURY TRIAL DEMANDED

COMPLAINT

Preliminary Statement

1. This is an action for preliminary and final injunction to protect rights safeguarded by the Constitution, to enjoin any enforcement proceedings to the extent they are based, in whole or in part, on alleged failures to cooperate with or respond fully to the issuance of "Requests for information" ("RFIs") by the United States Patent and Trademark Office's ("USPTO") Office of Enrollment and Discipline ("OED") in violation of Plaintiff's rights under the Fourth and Fifth Amendments to the Constitution of the United States, and for *Bivens* damages against certain federal officers and officials in their personal capacities for violation of Plaintiff's Constitutional rights to due process and privacy. This action is brought by Matthew H. Swyers ("Swyers"), against whom the individual Defendants have violated his constitutional rights by issuing "Requirements for Information" (RFIs) designed to harass, overburden, invade, injure and damage the Plaintiff and his business, and which violate fundamental rights to due process by virtue, among other things, of the complete absence of any means to challenge the RFIs' overbreadth, oppressiveness, or invasion of the attorney-client privilege, on pains of finding Swyers guilty of sanctionable conduct for not answering the RFIs to the OED's satisfaction.

2. Specifically, since August 2014, the Defendants have made it increasingly difficult for Swyers to practice as a trademark attorney before the USPTO by use of obtrusive and overly burdensome investigatory tactics, through the use of RFIs seeking information on as many as 15,000 trademark applications filed by Swyers, as to which no avenue exists for challenges based on breadth, privilege, vagueness, harassment, relevance, or invasion of attorney-client

privilege, and through direct contacts and issuance of mountains of requests for information to Swyers' current and former employees. Each RFI that is not answered to the OED's satisfaction – and none ever are, despite the expenditure of hundreds of thousands of dollars in legal fees and untold lost hours spent by Swyers himself to answer them, and then answer them again in an effort to address the OED's endless list of asserted deficiencies and demands for legal analysis -- becomes the basis for an additional "failure to cooperate" charge against Swyers, meaning that not only is there no way to challenge abusive, overreaching, or privilege-invading requests, but the requests are accompanied by a threat that anything but acquiescence could result in a loss of the right to continue in business, with no avenue to seek protection from their use as a bludgeon against Swyers, his employees, and his clients.

3. The burdensome and oppressive nature of the use of RFIs and the unavailability of any means of review, forcing respondent to answer on pain of an enforcement action for failing to do so, has been previously noted by the United States Court of Appeals for the Fourth Circuit. The practical effect of the constitutional violations is to force practitioners to agree to any proposed sanctions or leave the practice of trademark law altogether.

4. This suit seeks declaratory and injunctive relief, and monetary damages based on or resulting from irregular, invasive, disruptive and unreasonable issuance of RFIs by the OED and, specifically, the individual defendants.

Jurisdiction and Venue

5. This suit seeks relief arising under the Constitution of the United States as previously noted above. This court has jurisdiction of this action pursuant to 28 U.S.C. § 1331.

6. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the majority of the actions giving rise to the complaint occurred in Arlington County, Virginia where the OED and USTPO are headquartered and where the Defendant's offices are located.

Parties

7. Plaintiff Matthew H. Swyers is a U.S. citizen and resident of North Carolina. Swyers is a practicing trademark attorney before the USPTO located in Alexandria, Virginia, and is admitted to practice in the Commonwealth of Virginia as well as other jurisdictions.

8. Defendant the United States Patent and Trademark Office is an agency of the United States.

9. Defendant Ronald K. Jaicks ("Jaicks") at all times relevant hereto was the duly appointed and acting General Counsel for the OED and a federal officer whose duties include overseeing the OED, hearing petitions, and making investigatory determinations. Defendant Jaicks is sued in his individual capacity.

10. Defendant Gerard A. Taylor ("Taylor") at all times relevant hereto was the duly appointed and acting Staff Counsel for the OED and a federal officer whose duties include undertaking investigations on the part of the OED. Defendant Taylor is sued in his individual capacity.

11. Defendant Leonardo Villarreal Alejandro ("Villarreal Alejandro") at all times relevant hereto was the duly appointed and acting Staff Attorney for the OED and a federal officer whose duties include undertaking investigations on the part of the OED. Defendant Villarreal Alejandro is sued in his individual capacity.

12. Defendant Jane Doe is at all times relevant a duly appointed and acting member of the OED and a federal officer who participated in the OED investigation of Matthew H. Swyers. Defendant Jane Doe is sued in her individual capacity.

FACTUAL BACKGROUND

The Trademark Company

13. In 2003, Matthew H. Swyers founded The Trademark Company, PLLC, a Virginia law firm whose practice is dedicated exclusively to the representation of clients in the protection of their federal trademark and copyright rights. The firm is an unbundled law practice as recognized under the ABA Model Rules. From 2003 to the present, the firm has represented over 20,000 clients.

14. The Trademark Company's practice provides trademark access to thousands of persons who would not normally be able to afford to protect their intellectually property under standard law firm pricing structures.

15. Each year, The Trademark Company, through Swyers, handles thousands of research reports, applications to register marks, refusals to register marks, as well as litigation concerning trademarks for clients. The Trademark Company has been listed as one of the top trademark law firms in the United States by Intellectual Property Today magazine.

16. From 2003 to the present, the firm has represented over 20,000 clients. All of the thousands of applications for marks are directly filed with the USPTO, which naturally creates a significant case load for the USPTO examiners.

17. To Plaintiff's knowledge, none of these clients has lodged a complaint with the

USPTO about Swyers. Rather, upon information and belief, the investigation targeted Swyers due to the volume of his filings.

Commencement of Investigation into Swyers' Work

18. Beginning August 29, 2014, agent Villarreal Alejandro of the Office of Enrollment and Discipline ("OED") commenced an investigation of Swyers' work as a trademark lawyer. The investigation was undertaken despite no client complaints, allegations of unethical behavior or violation of USPTO rules.

19. On or about August 29, 2014 Swyers received an initial Request for Information ("RFI") from the OED seeking information regarding three trademark applications handled by Swyers. The letter warned that "It is a violation of USPTO Rules of Professional Conduct to fail to cooperate with the OED in an investigation ..." further threatening "... if you do not respond to this request for information, the Committee on Discipline may draw an adverse inference in making a determination..." on the issue.

21. On or about October 29, 2014 Swyers, through counsel, complied with the OED's request and provided the requested information.

22. Almost immediately, the OED's investigation broadened into an inquiry into virtually every trademark matter ever handled by Swyers.

Improper Client Contacts and Invasion of Attorney-Client Privilege

23. Staff attorneys for the OED began contacting various of Swyers' clients by letter and telephone regarding their trademark applications. For example, on or about December 12, 2014 the OED staff attorney Villarreal Alejandro wrote numerous letters to clients of Swyers,

without Swyers' prior knowledge or consent, requesting their "...assistance in connection with a review of [their] trademark application." The letters requested that Swyers' clients confidentially contact the OED staff attorneys Taylor, Villarreal Alejandro, or Elizabeth Dorsey ("Dorsey").

24. The letters made no mention whatsoever that the OED was investigating anyone, let alone the recipients' own counsel, or that the purpose of the communication was to gather evidence in support of that investigation or of potential charges against Swyers.

25. The letters asked about the validity of the marks, specifically whether the clients had actually provided the marks to The Trademark Company. The letters, by implication, suggested that a false statement had been made in the application about the mark, a potential ground for cancellation of the trademark on grounds of fraud. However, the letters made no mention of this, nor did the letters advise the clients of their rights with regard to answering the RFIs, or suggest that the clients speak to their attorney or other counsel prior to answering the RFIs.

26. The letters made no mention of the existence of the attorney-client relationship between the clients and their attorney, Swyers, nor did they indicate that the privilege could be deemed waived by answering the RFI.

27. Instead, the letters encouraged Swyers' clients to call the OED staff counsel with "questions", and provide a written response, without at any time stating that the OED was investigating Swyers.

28. Upon information and belief, on at least one occasion an OED staff member called a client of Swyers', asked questions about the application Swyers filed the client's behalf,

assured the client that they did not need to worry because the caller was not an attorney, and expressly advised the client that they need not speak with Swyers before answering questions, again without advising the client regarding the existence of the attorney-client relationship or about the potential waiver of such privilege.

29. After clients began receiving the letters from the OED, Swyers and his office received numerous calls from clients inquiring as to the basis for the letters. Ultimately, the volume of calls reached such a point that on December 16, 2014, Swyers, by counsel, spoke to the individual defendants herein and requested that they cease all efforts in contacting Swyers' clients directly and provide a list of clients contacted. OED attorney Jaicks advised that a list would be provided but never did so.

30. The written and telephonic contacts with Swyers' clients were in violation of Rule 4.3(a) of the Rules of Professional Conduct of the Supreme Court of Virginia, in that the persons contacted were not represented with regard to the matter, i.e., the investigation of Swyers, the OED staff attorneys implied that they were disinterested, the OED staff attorneys knew or reasonably should have known that the unrepresented persons misunderstand the lawyer's role in the matter, and the OED staff attorneys did not make reasonable efforts to correct the misunderstanding.

31. The letters themselves contained legal advice in that they described to the clients what a "specimen" was. Such advice, together with any advice by telephone that the clients did not need to speak to an attorney before answering the OED's questions, violated Rule 4.3(b) of the Rules of Professional Conduct of the Supreme Court of Virginia, which prohibits a lawyer

from giving advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interest of the client.

32. The letters also were violative of Rule 4.2 of the Rules of the Supreme Court of Virginia, in that they constituted prohibited communication about the subject matter of a representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so. The OED was soliciting information from Swyers' clients that, in the OED's view, constituted potential evidence of fraud on the USPTO, which would fall within the subject matter of those clients' representation by Swyers. Indeed, in a December 19, 2014 telephone communication with Swyer's counsel, Jaicks and Villarreal Alejandro specifically raised the possibility that the trademark applications filed by Swyers could be found to be fraudulent and that Swyers' clients could be damaged.

33. The letters have damaged the reputation of Swyers and his firm.

34. Upon information and belief, the USPTO is not appreciative of the added workload facilitated by the services provided by Swyers through The Trademark Company or similar services, which has prompted an investigation by the OED into his firm.

35. Swyers to date has not been informed of any client complaints to the OED or USPTO.

36. Nevertheless, the OED has embarked on an unwarranted, oppressive, and unconstitutional investigation of Swyers impacting his ability to practice law, robbing him of

thousands of hours of professional time in attempts to respond to the OED requests for information, and costing hundreds of thousands of dollars in legal fees.

RFI Abuses

37. Swyers was served initially with a set of RFIs by Villarreal Alejandro with the OED on August 29, 2014. The first set of RFIs served on Swyers encompassed 8 inquiries. On or about October 29, 2014 Swyers, through counsel, complied with the OED's request and provided the requested information.

38. On December 19, 2014, following production of materials to the OED on October 29, 2014, and following Swyers' objection, through counsel, to the OED's *ex parte* communications with Swyers' clients, OED staff attorney Villarreal Alejandro issued a second set of Requests for Information (the "Second RFI").

39. The Second RFI contained five requests requiring responses and documentation for over 500 trademark applications -- thereby constituting, in reality, some 2500 requests. *See* Exhibit A hereto. Like the initial RFI, the Second RFI contained an explicit threat of discipline for non-compliance. *See* Exhibit A at p. 15.

40. Moreover, question 4 of the Second RFI requested, by inference or otherwise, for Swyers to review every signing of his name that had ever occurred before the USPTO, to determine whether any of those signatures were not entered by Swyers. Based upon roughly 16,000 applications bearing his name at the time, and conservatively estimating three signatures per file, this request asked for Swyers to answer a question concerning 48,000 signatures. Combining this estimated 48,000-part answer with the prior estimated 2,500 questions, the

OED's Second RFI, in total, requested answers to approximately 50,500 questions or sub-parts. The RFI required responses by January 9, 2015.

41. In a civil proceeding in a state or federal court, information requests containing 50,000 sub-parts would be subject to objection and the entry of a protective order. Requests for information that invaded the attorney-client privilege could be addressed similarly. However, no such process exists, by regulation or otherwise, before the OED, notwithstanding that the penalty for non-compliance with the OED RFIs encompasses attorney suspension or disbarment.

42. Swyers provided the OED with responses to the second set of RFIs on March 16, 2015.

43. On March 20, 2015, the OED requested a settlement conference at their offices in Alexandria, Virginia. Swyers agreed, and a date was set and confirmed twice by the OED. Although Swyers and his counsel at the time, a resident of Boston, Massachusetts, spent significant time preparing for the conference and expended costs for travel, the OED cancelled the conference by email the day before and stated that the "evidentiary record was not sufficiently developed."

44. Despite two rounds of RFIs, a third set of RFIs encompassing 2 requests with subparts was sent to Swyers on March 31, 2015 including a request for "the full names, mailing addresses and personal telephone numbers for ALL current AND former employees of The Trademark Company." This request included dozens of past and current employees from the time Swyers opened his firm in 2001. The OED demanded a response thereto within fifteen (15) days. Of note, the third RFI did not contain the explicit threat for non-compliance that was

included in the first two RFIs.

45. On or about April 15, 2015 Swyers responded to the Third RFIs propounded by the OED. As part of his response to these third RFIs, Swyers, by counsel, objected to providing the OED with personal employee information and objected to the OED contacting all current employees without certain protections in place.

46. On or about April 16, 2015 OED staff attorney Taylor sent a letter threatening adverse discipline to Swyers if he did not immediately supplement or restate responses provided in Swyers' April 15, 2015 response to the OED's Third RFIs. *See Exhibit B.*

47. In response to Taylor's threats, on or about April 27, 2015 Swyers supplemented the third RFIs and provided all employee information, including personal addresses and phone numbers to the OED in response to the Third RFIs.

48. In April, 2015, by letter to Taylor, Swyers requested the OED reschedule the prior settlement conference it had cancelled. Taylor declined the request.

49. On or about May 7, 2015 OED staff attorney Taylor forwarded 14 sets of RFIs to the 14 then-existing employees of The Trademark Company, none of whom are attorneys. *See Exhibit C.* Each RFI directed to each employee contained 64 independent information requests, including requests for attorney-client privileged communications, totaling 896 RFIs.

50. On or about May 18, 2015, OED staff attorney Taylor forwarded to Swyers the OED's Fourth RFIs. *See Exhibit D.* The requests ostensibly consisted of 149 questions, but totaled at least 332 questions including subparts, and potentially thousands more depending on the interpretation of the requests' broad language.

51. Like the initial RFI and Second RFI, the Fourth RFI again contained an explicit threat of discipline for non-compliance.

52. Swyers again timely provided responses to the fourth set of RFIs to the OED on June 18, 2015, totaling 113 pages of responses.

53. After receipt of Swyer's fourth set of RFIs, the OED responded that Swyers had failed to provide complete responses to approximately 37 requests contained in the Fourth RFI. The OED maintained that Swyers had violated 37 C.F.R. § 11.801(b) and was subject to discipline pursuant to 37 C.F.R. § 11.32 for failing to properly respond.

54. On June 29, 2015 OED staff attorney Taylor forwarded to Swyers, via counsel, the OED's Fifth RFIs seeking yet more information in the ongoing investigation. *See* Exhibit E. The fifth RFIs also requested privileged client correspondence regarding trademark filings. Once again, given the scope of the requests in conjunction with the subparts thereof the OED's Fifth RFIs sought answers to hundreds of additional questions from Swyers on an exceedingly short time frame. Again, OED staff attorney Taylor threatened Swyers, in writing, that failure to respond to the questions in this investigation would lead to adverse consequences. *See* Exhibit E.

55. Swyers thereafter provided supplemental responses to the Fourth RFIs, totaling a dozen single-spaced pages, together with responses to the fifth RFIs, to the OED on November 6, 2015. Despite Swyer's repeated answers to the OED's RFIs, ten days later, the OED again objected to the supplements to the fourth RFIs and fifth RFIs, maintaining that Swyers had failed to respond or failed to respond completely to both sets of RFIs, including nearly every single supplement to the fourth RFIs. The OED threatened that Swyers violated 37 C.F.R. § 11.801(b)

and was subject to discipline pursuant to 37 C.F.R. § 11.32.

56. Many of the OED's objections to Swyers' comprehensive supplement to the fourth RFIs: (a) simply repeated the so-called deficiencies of the original 113 page responses to the fourth RFIs, (b) found minutae in which to claim the responses were incomplete (i.e. the Swyers' multiple page substantive responses discussed filing "trademark applications" but failed to specifically state each time that this response also included trademark *declarations*) or (c) labeled clear, simple responses as "ambiguous". This confirmed that regardless of Swyers' repeated attempts to answer the RFIs in full, the OED would continue to label Swyers' responses deficient no matter the response.

57. The OED also requested in-person interviews with every current employee of the Trademark Company (most of whom work in North Carolina, but one of whom works in Boston, Massachusetts), and has interviewed, or attempted to interview, every single former employee of The Trademark Company. Upon information and belief, the OED has left messages with former employees seeking to induce them to call the OED personnel by indicating not that the OED was investigating Swyers, but that the OED was merely seeking to confirm the individual's past employment.

58. The RFIs were not limited to seeking factual information and documents, but extended to demands that Swyers provide extensive legal analysis justifying the procedures utilized by The Trademark Company.

59. Swyers has expended extraordinary efforts in attempts to comply with the oppressive requests of the OED but has been informed numerous times throughout the

investigation (April 16, 2015, June 29, 2015 and November 16, 2015) that he has failed to respond in a manner satisfactory to the OED investigators. Regardless of how many times and in how many ways Swyers responds, he is told by the OED that his responses are insufficient and that he faces prompt adverse consequences subjecting Swyers to independent disciplinary grounds for failure to respond that could result in suspension of his ability to practice before the USPTO.

60. Responding to the OED's requests has required Plaintiff to incur over a quarter of a million dollars in legal fees, and to devote hundreds of hours of time away from his practice, with additional time and resources having to be spent in efforts to mitigate the damage done to Swyer's business and reputation.

61. The OED's investigation throughout has been characterized by an utter lack of procedural safeguards protecting Swyers' rights and his clients'. The OED's requests for written answers, documents, and justifications of legal positions were clearly overly burdensome and oppressive and invaded the attorney-client privilege, yet no means existed for Swyers to seek review and relief from the abusive requests. Nevertheless, Swyers had no option but to answer the RFIs because failure to comply would itself constitute grounds for disciplinary sanctions. An attorney should not be compelled to subject himself to disciplinary charges, and the adverse consequences that may flow therefrom, in order to protect his client's confidences or to challenge unduly burdensome discovery. Instead, the routinely abusive nature of the requests, the denial of any avenue for challenge, and the threats of disciplinary action for non-compliance, are hallmarks of a system lacking those procedural safeguards to which Swyers, or anyone, is entitled

to under the Constitution.

62. The unbridled oppressive use of RFIs without any means whatsoever to challenge them, transforms an ethics investigation into a strike suit, forcing attorneys targeted by the OED to accede to any OED settlement request because of the inability of the practitioner to afford to comply with the process.

63. After a year and a half of investigation and the extraordinary compliance efforts, Swyers has still not been apprised in any meaningful way of what it is that he is supposed to have done wrong. In a manner truly Kafkaesque, the OED's RFIs repeatedly make only vague references to violations of 45 USPTO Rules of Professional Conduct as being the potential basis for a determination of violations under 37 CFR §11.32.

64. Ironically, as best as can be gleaned from the myriad of OED RFIs, the OED's concerns regarding Swyers' practice appear to be fairly limited: whether in certain instances paralegals had entered Swyers' electronic signature, the degree to which paralegals assisted in the preparation of applications, isolated instances of a sample specimen having been uploaded in error with an electronically submitted application instead of the specimen actually provided by the client, and the extent to which the acceptance of credit card payments complied with trust account requirements. Upon information and belief, few if any factual disputes exist between Swyers and the OED relative to any of these issues, although significant disagreement exists as to the legal conclusions to be drawn from the facts.

65. Swyers has expended over \$250,000 in legal fees in responding to the issuance of RFIs in this matter. Swyers has also suffered damages due to lost time in an amount in excess of

\$300,000. Swyers has suffered and will continue to suffer ongoing injury to his legal practice and has been harassed and oppressed in the conduct of his business as a trademark lawyer, all ostensibly in the name of the proper supervision of lawyers by the USPTO. In addition to seeking damages for legal fees and professional time required to be expended as a result of unconstitutional conduct by the individual defendants, Swyers seeks injunctive relief against the OED proceeding as to disciplinary action that are in any way based on an alleged deficiency in Swyer's responses to RFIs.

FIRST CLAIM FOR RELIEF
(Violation of Due Process)

66. The Plaintiff Swyers hereby incorporates by reference his responses to paragraphs 1-65 of his complaint as if fully set forth herein.

67. By means of its actions set forth above, the USPTO, through the individual actions of Taylor, Jaicks, and Villarreal Alejandro violated and continue to violate Swyers' rights to procedural due process of law safeguarded by the Fifth Amendment of the Constitution relative to the inquiry into and actions regarding his professional work as a trademark lawyer.

68. The actions of the USPTO, Taylor, Jaicks, and Villarreal Alejandro entitle Swyers to both injunctive and monetary relief, which is requested by the court.

SECOND CLAIM FOR RELIEF
(Unreasonable Search)

69. The Plaintiff Swyers hereby incorporates by reference his responses to paragraphs 1-68 of his complaint as if fully set forth herein.

70. The OED's and the individual defendants' promulgation of its RFIs to Swyers as

set forth above amounts to an unreasonable search within the meaning of the Fourth Amendment of the United States Constitution, entitling Swyers to relief from same. The accompanying intrusion upon the attorney-client privilege invades Swyer's rights to privacy under the Fourth Amendment.

71. The actions of the USPTO, Taylor, Jaicks, and Villarreal Alejandro entitle Swyers to both injunctive and monetary relief, which is requested by the court.

DAMAGES

72. The Plaintiff Swyers hereby incorporates by reference his responses to paragraphs 1-71 of his complaint as if fully set forth herein.

73. The conduct of the individual defendants in violation of Swyers' constitutional rights entitles Swyers to damages caused thereby, pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

74. The Plaintiff has been damaged as a result of the Defendants' unlawful acts in an amount to be determined at trial, but in no event less than \$550,000.

75. Further pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) and *Davis v. Passman*, 442 U.S. 228 (1979), Plaintiff is entitled to damages including 1) economic damages, 2) compensatory damages, 3) court costs and 4) any other relief the court may deem just and proper.

INJUNCTION/T.R.O.

76. The Plaintiff Swyers hereby incorporates by reference his responses to paragraphs 1-75 of his complaint as if fully set forth herein.

77. The enforcement of charges of violations of disciplinary rules based in whole or in part upon the failure of Swyers to answer to the OED's satisfaction RFIs that violate Swyers' constitutional rights as set forth above, is itself unconstitutional. If such action is not enjoined, Swyers will suffer immediate and irreparable harm through, among other things, loss of his time, loss of income, incurring attorney's fees, loss of reputation, and loss of clients. Swyers asks this Court to enjoin Defendants on a preliminary and permanent basis from the enforcement of charges of violations of disciplinary rules based in whole or in part upon the failure of Swyers to answer to the OED's satisfaction RFIs that violate Swyers' constitutional rights.

78. Swyers has no other remedy at law.

WHEREFORE, the Plaintiff Swyers prays unto the court for judgement follows:

1. An award of economic and compensatory damages against the individual defendants;
2. For a preliminary and permanent injunction from the enforcement of charges of violations of disciplinary rules based in whole or in part upon the failure of Swyers to answer to the OED's satisfaction RFIs that violate Swyers' constitutional rights;
3. An award of reasonable costs and attorney's fees; and
4. For such other and further relief as the court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, a trial by jury is demanded in this action of all issues so triable.

Dated: January 6, 2016

Respectfully submitted,

MATTHEW H. SWYERS

SANDS ANDERSON PC



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Counsel for Plaintiff Matthew H. Swyers

EXHIBIT A


UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

DEC 19 2014

Mr. Jeffrey Hamilton Geiger
Sands Anderson PC
PO Box 1998
Richmond, VA 23218-1998

CERTIFIED MAIL *71105100041249667*
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: OED File No.: G2423 – Mr. Matthew H. Swyers
SECOND REQUEST FOR INFORMATION AND EVIDENCE
UNDER 37 C.F.R. § 11.22(f)

Dear Mr. Geiger:

Below is a list of trademark matters that are currently being reviewed by the Office of Enrollment and Discipline (“OED”) in OED File No. G2423.¹ You requested this information on behalf of your client, Matthew H. Swyers, during a December 16, 2014 telephone conference with Senior Counsel for Disciplinary Investigations Ronald K. Jaicks, OED Staff Attorney Gerard Taylor, and me.

Serial Number	Mark
77183926	FAIRY
77466366	BOULEVARD
77759451	PC PRINCIPLE CONSTRUCTION CORP.
77772822	BUTEYKO
77835029	DREAM-MAN
77846261	DEEZ NUTZ 5
77892297	ALIENGear DON'T FEAR IT, WEAR IT.
77914782	BYOU BE YOUR OWN YOU!
77954824	COLOMBUENO
79133514	QW QWILL
79147861	SHAW-GRIP
85065442	ALREADY THERE
85112126	SWEET SEASONS
85114854	CONNECTIVE THERAPEUTIC SYSTEMS
85114866	CONNECTIVE TRANSFORMATIVE THERAPY

¹ If no mark appears in the right hand column, the trademark application does not involve a word mark.

Re: Mr. Matthew H. Swyers
 OED File No.: G2423

Page 2

85129839	THISIZME
85156872	ENVIROTEK
85164993	BONES
85208041	CONSTITUTIO
85224205	PEAK COMMUNITY SUPPORTS LLC.
85275773	SUPERMAX
85311495	BARK AVENUE PET SPA LLC
85324965	THE COMMANDMENTS
85338341	CVOX
85344668	ORGANIX COSMETIX CERTIFIED ORGANIC PRODUCTS
85350956	BRITTLE STIX N' MORE
85351820	PULPO PAUL
85365672	TALK 2 A PASTOR
85374566	BOUQUETS OF CHOCOLATE SEND SOMETHING SPECIAL
85415862	SOLDIERWEAR SW
85420661	SPRINKLER TECHNOLOGIES
85428151	A PEACEFUL PRACTICE
85431840	COLLECT MY JUDGMENT.
85463846	REAL FOOD CERTIFIED
85476844	J E A N
85483363	SEASIDE OYSTER COMPANY
85483527	TRIPLE RRR RANCH RAISE'M RIDE'M RIBEYE'M
85483919	S.SERVICE O.N S.ITE
85486121	PENELOPE PENELOPE PROJECT
85486776	ANTLER ADDICTION
85489477	BORN AGAIN FITNESS & NUTRITION
85493659	KINGDOM CHICS
85493826	ANAEROBIC
85502171	SKINTIMES
85505421	CARLO THE MOUSE
85516181	HALFWAY HOLY
85519424	THE VETS
85521585	THE ALFAJOR FACTORY
85522837	SUNCASTLE SOLUTIONS
85526778	LATIN FOODS ENTERPRISE CORPORATION
85527940	P
85534726	ORIENGE
85536773	LANIKAI JUICE HAWAII SINCE 1997
85542549	PELLINI ITALIAN EATERY
85544845	SUREOXYL
85547678	NEVER JUST A GAME
85548059	DENTAL IMPLANTS - TEETH DONE RIGHT!

Re: Mr. Matthew H. Swyers
 OED File No.: G2423

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85554622	MORRISON AUSSIE TRAVELERS' PIES
85554807	SWANKY
85556183	GLYCO BRIGHT
85557862	AMD AMERICAN MEDICAL DENTAL
85561644	FORPLAI BY LAMMAN RUCKER NATUAL BATH AND BODY CARE LINE
85562388	CPR WEALTH ADVISORS
85568779	GOD'S D.I.V.A.
85569202	COBAR SYSTEMS
85575268	STANDARDS GUY
85575291	THE 10 SECOND PHILOSPHY
85577868	FAVVIAS
85579607	EYJ
85580570	SOLIDIFLY
85580699	PANDA18
85580716	IDS
85590555	BIOCEUTICAL FORMULATIONS
85590843	CANDIDATE TRUSTED
85601141	ALLEN B DUMONT LABORATORIES INC.
85605603	RIDEMAX
85612537	VIET GRILL
85612564	EXCHANGE CONNECTOR
85612843	SCOREMAESTRO
85613128	VACATION BOB
85620833	PRIPRO
85621732	SEATSNOOZER
85621787	CREPEAPE
85622229	MARUTI
85622745	AGILE FLEET SHARE
85623960	FOLLICLE PURE
85629608	FEARLESS TRIBE
85632117	FIREWURST
85635156	
85637301	LORDS OF IRON MC EST. 1978
85639743	THE TOTAL FACE PLACE
85639807	BEACHRIOT
85640537	IMPLANT & PERIODONTAL THERAPY RICHARD A. RASMUSSEN, DDS RICHARD RASMUSSEN III, DMD, MS
85640792	REPLENISHED RENEWING SPACES... REPLENISHING HEARTS
85641224	RIME OF THE ANCIENT ASTRONAUT
85642452	SINK OR SWIM
85642481	HAWK AV
85643475	DEEP DB

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85647741	GOD'S GIFT SINCE THE BEGINNING OF TIME
85649301	LITTLE WAISTED
85650276	MADUSA'S MORPHS
85650357	N.J. TOUGH
85652680	REFLECTIONS OF THOUGHT
85652879	BIZMACS
85652890	HOMEMACS
85652942	APERTURE EVENTS
85653268	MADE IN CHINA
85654229	MAXIMINI
85654462	PHOSPHORESCENT RECORDS
85654999	SAFETY...EVERYONE'S RESPONSIBILITY
85656458	ESR ASSURED COMPLIANCE
85658868	ZIP AND CLICK
85658888	ZIP N CLICK
85660351	GITRITE PRODUCTION GOD'S IMPARTATION OF TOTAL RIGHTEOUSNESS IN THE EARTH
85660434	IB INKBLOOD EMPIRE
85661736	FROG LIFE
85662384	CHIZZE CREATIONS
85663723	JUMP IN AND START SWIMMING
85664652	NETSUME
85666771	MUDDY WATER
85667682	NOPALACTIV
85668527	TOP SHELF
85670253	ANTIOXIDANT WATER
85673062	PRISM GROUP
85674243	MEAN18
85676013	RUMBLE PIE
85681149	ENGAGE BEHAVIORAL HEALTH EMBRACING INDIVIDUAL SUCCESS.
85685633	FW
85687830	N FLAMED
85689978	LUNCH PALS
85692172	INFORMATION = EQUITY
85693750	LIFE NOVEL
85693932	LITWITS
85695790	WISHCLOUDS
85698408	MAXX THE MINI
85698443	FW FIREWÜRST
85700297	TRAIN STRONG. THINK STRONG. BE STRONG.
85703621	ULTIMATE GAME TRUCK
85704169	OVIS X

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85705303	BEZENDO!
85705727	FATTYS EVERY DAY IS A CHEAT DAY
85706108	SLIDEWAYS EST. 2012
85707480	DENTORUS WITERX
85707521	PHILLY TOUGH
85707699	EYEGO
85709045	A.P.F. ALWAYS PRAY FIRST
85711148	F4B
85714460	GAME TIGHT ENTERTAINMENT
85717170	JET FORCE GEMINI
85717334	ECAT
85717344	ECAT
85717823	SAFEGUARD SPORTS
85718094	NORTH POLE MAGIC FLURRIES
85718107	BLUETICK BREWERY
85718824	BIOMECHANICAL FUNCTIONAL DIAGNOSIS
85718855	TOTAL HEALTH CONNECTION
85720165	PLAN WITH PURPOSE
85721638	GREEN DEPOT
85724353	MARVEL FREE N CLEAR
85724451	AWARDWINNINGLAWNS
85725038	HAPI
85727202	FITCAST
85728991	JETHOSTING
85729255	RIZE
85729519	A AUDITPROPOSAL.COM YOUR AUDITING MARKET PLACE
85729697	TOUCHALBUMS
85730735	CRÚ
85730925	ECO HEALTHY MEALS
85731304	PINO BURGER
85734251	PARK TAVERN
85734546	COMPASSIONATE ESTATE CLEARING SERVICES T
85736056	Z
85739579	Z
85740927	GOD IS PRONOUNCED JÉE ZES JOHN 14:9
85741066	CHINESE MAI TAI
85743028	OLD JEWS TELLING JOKES
85743044	OLD JEWS TELLING JOKES
85743926	ULTIMATE DIVA
85745201	VALUE DOC
85745441	ATGAMES
85746094	DESTINY CAPITAL

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85749908	MIRACLE ART PRODUCTIONS
85755053	SLEEP STEWARDSHIP
85757137	VERTICAL STORAGE
85759384	ORTHO-TAG
85760332	MEETORBIT.COM
85760486	EXCHANGE FORUM
85763493	DEFINING APPAREL
85763516	OLD JEWS TELLING JOKES
85771037	THIRSTY BITCH
85771254	EXPERIENCE THE CREDIT UNION DIFFERENCE
85771424	CHAPMAN HALL REALTY
85773271	CUREDIVA
85773273	CUREDIVA
85773870	THROATPUNCH
85773903	KEIRIN CUT JEANS
85774176	THE PLAN 4 LIFE
85775410	SOLIS TEK DIGITAL LIGHTING
85776427	BAND
85778998	ARCHANGEL REIKI
85780724	NOT SO WIDE
85780751	NANOWALL
85781552	MYSYMIN
85782045	BETTER MEASURES
85783470	IT AINT ALL ABOUTYOU BIG MIX
85783666	AQUA BLUE
85784332	SARASWATT'S YOGA JOINT
85788170	SUNPOWERSHEDS
85790719	NCOMPASSTRAC
85795349	NEWPORT BEACH CHRISTMAS BOAT PARADE
85795473	FOR THE LOVE OF PETS
85795480	CELIA'S
85798964	LET'S LETTER
85801877	MILTI PUCE
85802209	WAVICLE
85802581	SOFLOFT
85804654	FITNESS 2.0
85808732	POLYMATCHMAKER
85810989	YOU MESSED WITH THE WRONG RACK
85811104	PERFECT FIT ORTHOTIC
85811188	RETURN MY KEYS
85818098	RICH IDIOT
85822672	KERATINBAR

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85823645	OLD SOUTH COLUMNS
85826509	BERARE
85827112	IBUY4RESALE
85831125	LAVA HEAT ITALIA
85831135	X GULF COAST XTREME X MARKS THE SPOT
85836100	PRINCESSES & PIRATES GO POTTY TOO
85836466	MAUI HOOK BRACELETS
85836740	CIGARETTE GIRLS BY MRS. BELLA'S DOLLS
85838776	INNOVA PANEL HIP
85840577	CRATER LAKE
85840668	SEW-IN SPRAY HAIR CARE PRODUCTS
85842297	SUPILLOW
85844436	PURE HEALTH F O R M U L A S LLC
85847036	ALL NATURAL GARCINIA CAMBOGIA
85847153	CERTAGLAZE
85849541	JAWS SURF TOURS
85849546	JAWS SURF COMPANY
85849588	SHE'S A 10! WEAR
85849911	QUALIFIED RISK DIRECTOR
85850755	SALADSHOTS
85850899	POWERING THE PEOPLE WHO POWER AMERICA
85852496	VINEYARD'S PREMIUM
85852665	ZEOS
85852943	BBP BOSTON BUSINESS PRINTING, INC.
85853265	SENSORPEDIC MEMORY DOWN
85853988	BERARE UNIVERSITY
85854508	INSECT ARMOR
85855840	JOI ROCKS
85856409	BLIXT & COMPANY
85856511	ASK THE EXPERTS
85857197	XENTICEL
85857610	PREMAKE PINK AND WHITE TIPS
85857711	WHUT!
85859350	BUBBLE LAND
85859913	EELAY
85860605	THE DATE DISH
85861585	HM HEALTHCARE MOBILE
85862659	METROHEALTH STATION
85862715	MONTAJ
85862792	IBLONDEINOT
85863293	JAMLOG
85863711	UKOR

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85864428	GUAVA HEALTHCARE
85864474	COLOR FEST
85866909	HAVE A GOOD DAY!
85867121	MATTHEWSDANIEL STORM TRACKER
85868126	LEVEL7TENNIS
85868736	VEGAS DREAM POKER
85868748	SOLITAIRE TALES
85868754	BALLISTO
85870606	SIT DOWN WORLDWIDE
85873233	MA PETITE CHERIE BAKE SHOP
85873261	MACO
85873370	LEADING IN HIGH HEELS
85873846	THE ART OF STANDING!
85874766	UNCORKED ORIGINALS
85877675	CHANGO
85878412	TP TUBE PUMP SYSTEMS
85879471	GOODGIRL TANKS & TEES
85882670	ELEMENTAL SEEDS
85882692	ELEMENTAL WELLNESS SEEDS
85883362	M9
85883405	NOBACKEND
85885010	PLUMAGE
85887574	GANGSTA 4 GOD
85888931	
85889522	CODFUEL.COM
85890831	LITTLE CRYSTALS
85892529	THANK YOU FOR THESE 24 HOURS
85892939	MIND - BODY - SOUL SISTERS
85895550	ELEMENTAL WELLNESS CENTER
85895559	ELEMENTAL WELLNESS
85896870	HEDONISMO
85899097	GETREADY! EMERGENCY PLANNING CENTER
85900087	PROSPERITY FINANCIAL ADVISORS, LLC
85905197	BE THE PERSON YOUR DOG THINKS YOU ARE!
85905539	TWILIGHT CITY
85911327	CLAY PAINT
85913091	TACTICAL HOG ERADICATION THE
85913371	VALUE STATEMENTS
85913509	WALK-IN SHOPPER
85914527	NON VALUE-ADDED LANGUAGE
85914882	MANY, SOME AND OTHERS
85918376	BLUETICK BREWERY

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85919970	UQ LIFE
85920275	ANUNNAKI
85922288	LICK
85923066	ROMANCING THE WEST
85931043	SNAP #TAG PRINT
85932602	INANVEST GET IN AND INVEST
85934315	GREAT GRILLS
85934928	SP SUPER POLLO GRILLED CHICKEN - POLLOSASADOS ORIGINAL MEXICAN TASTE..SINCE 1980
85935519	JESTUDIOS
85937447	LOTUS
85937507	LOTUS
85939715	BRINGING EHR TO LIFE
85940593	CONSCIOUS REVOLUTION
85945333	TAKE LIFE OUTDOORS
85956053	CYBERTECH
85959790	CYBER PRIVACY RISK CPR
85961854	SHINE BRIGHT LIKE A DIAMOND MOTIVATES, INSPIRES, AND EMPOWERS YOUNG WOMEN BY NURTURING THEIR TALENTS THROUGH EDUCATIONAL ACTIVITIES
85961869	
85962783	ZEN FESTIVAL
85964921	SIMPLY AROMA
85965819	SOLIS TEK
85966427	METROHEALTH STATION
85966703	KRAWL LOCO
85968227	MOJO
85971315	SWEETER SORTS
85979654	RUMBLE PIE
86003190	SUPER GOOD FOR YOU FOODS
86004851	
86008510	LONE STAR CHILI SPICES, ETC. IT'S A TEXAS THANG!
86011018	CHERNY BOCK SCHWARZBIER
86011689	BILLIONAIRES ROW
86012475	GUNNER Z
86014001	CUSTOM REAL ESTATE SERVICE AT A CUSTOM PRICE
86024434	GOOD WISH UMBRELLA
86026185	420FLAME
86026344	GETI BEAUTY
86027033	ZOMBIWARE
86029721	AQUA
86030262	SOLAY WELLNESS SOWELL
86032268	NOCTURNAL NONTYPICAL

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86032298	BANG UR HEAD
86033368	KNOWTRO
86036370	"DONT LET HIM LIVE IN THE DARK!"
86038066	ADVANCE PREVENTATIVE & PROTECTIVE SERVICES
86038067	BENGAL TIGER WEAR
86038738	ZW ZOMBIEWARFARE
86041978	XSHAVE
86042463	ARCTIC ENERGY RLE
86044900	GEORGE WRIGHSTER
86044969	BOOMEON BE YOUR GENERATION. YOUR PLACE TO BE.
86046742	CEEVA GOLKONDA
86047127	HEAD ACCELERATION REDUCTION TECHNOLOGY
86047129	HEART ACCELERATION REDUCTION TECHNOLOGY
86049704	RE ROYAL EMPIRE
86050499	ALWAYS TASTE THE DIFFERENCE
86056800	GOD DOESN'T BLESS STUPIDITY
86057839	NO STUPIDITY ZONE
86058179	NEW GORGEOUS SKIN CARE PRODUCTS
86061912	GENEID
86064161	LAWYER AROUND THE CORNER
86070794	SALTWATER SYNDICATE
86072819	CASTFLOOR
86076628	XPERT FULFILLMENT
86077238	EATME NATURALS
86078636	ROORAH
86081679	INDUCED VISIONS
86082632	CAMO COMEDY
86082632	CAMO COMEDY
86089702	ECO-FRIENDLY REMEDIATION
86091374	SWANK LIFE
86092677	NERD COSMETICS
86092714	NERD
86094309	BS BOTTLE SERVICE
86097637	DO YOU STAY TRUE LIFESTYLES
86100026	GIRLS LOVE LEGGINGS
86104809	JUMPGYM
86107690	VENEFILTER FILTRATION SEPARATION PURIFICATION
86108621	FUEL YOUR MOTIVATION
86116653	FASCIA BUZZ
86117461	MOLLY'S BOYS
86120339	APPS WITHOUT BORDERS
86121987	EXO SKELETON

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86125221	G
86125700	CAKE WEIGHT
86126169	LIVELOUD
86128340	PLAYIN'FIELDS
86128638	BLUE-DOCK
86129239	BUTTONS GALORE & MORE
86130058	COMPLETE MERCHANT SOLUTIONS
86131006	EXXO
86133003	PRIVACY LOCK
86136934	XYLOS
86137363	ISIGHTMISSIONS
86138094	UNEQUAL TECHNOLOGIES
86138394	GLOBAL WARMING SUCKS
86139311	UNCLE MONK BRANDED -34114753 U.S.A.-
86141088	THE NEW CHESSE OF CAYAMBE ECUADOR
86145034	BLOODPUNK
86147244	GORGEOUS CLIENTELE
86148504	KOPZ
86151493	FIGTREE FINANCING
86152762	K
86152994	E ENGN
86153270	LOOPACELL
86155100	SAVING MY BLOWOUT
86157074	KJANIEC PRODUCTIONS
86166013	CANE TO COCKTAIL
86170127	PATRIOTIC GOODS
86171919	TREEFREE
86172054	3:16 THREE SIXTEEN ANGEL PROJECT
86174461	
86176387	PRETTY AMBITIOUS
86176924	WHAT'S IN YOUR GENES
86176944	WHAT'S IN MY GENES
86180380	LIFE CYCLE
86187997	RESTORE LIFT
86190406	TWO STICKY
86191375	DANCE RECITAL TICKETING
86196671	EP
86199944	FRESH LOCAL PRODUCT
86202126	1M 1MORE
86206252	PANTOJA LEGEND
86207657	TRY THE WORLD
86207689	TRY THE WORLD

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86207776	NACH-O GROWLER
86208571	THE HERBAL COLLECTION
86210338	2SOLES LLC JOURNEY INTO HEALTH AND BEAUTY
86213593	MOTION TECH LAB THE OFFICIAL BODY IN MOTION GEAR
86217289	REDROCK ROASTER
86217652	CAME-TV
86219272	HEALTH CIRCULATOR
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS ADVERTISING MARKETING
86224881	STEPS OF TEAMWORK
86226090	VAN DER HAGEN
86226108	SOUL
86229428	SEXY LIPS
86231543	BLESSED ESSENCE
86233002	MADINA VITAMINS
86233916	CUBAN BY HAVANA
86234966	DON'T EVER GIVE UP
86235103	INCHIC
86235556	ENDTIME MINISTRIES
86235628	END OF THE AGE
86235680	JERUSALEM PROPHECY COLLEGE
86236382	WEBHATS
86238326	PRO TOUGH
86240315	OSPREY POWER PLATFORM
86241461	THE CHOKE
86242795	O'SIDE OR ON NO SIDE
86246147	HEART FOOD
86250832	AQVAZE
86251797	LAMJERKY
86254040	E SIGMA
86256266	AVYON
86263078	L TUNES
86266774	
86273334	STEM ENHANCER BIOXCELL
86276030	DEBER HONOR VETERANOS AMERICANOS PARA SIEMPRE
86278109	BEYE
86279461	INSPIRED BY NATURE ACHIEVED BY SCIENCE
86282041	REDHEAD ROYALTY
86286040	MY BLOCK MY HOOD MY CITY
86287285	SOUL INSIDE
86287301	
86287849	ICUSTOMONLINE

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86288626	ANCIENT COMPANY
86292422	EARTHYPET
86300156	OAKLAND REPUBLIC
86303783	ALH
86303859	AC&T
86307519	SHOW THEM CHRIST
86310850	TRILOGYZ
86318392	GL&KG
86325801	LIVE DEEP
86326681	RELATED 2 SUCCESS
86332208	MADE IN AMREEKA
86333454	4061
86334666	GLUCO SYSTEMS
86343197	SPRAY LIFE
86353872	BETTER CHEMISTRY
86397727	SPEEDY TAMALE

Preface to Second Request for Information and Evidence

Each of the above listed trademark applications contains a submission (or submissions) filed electronically under the name “Matthew H. Swyers” and/or “Matthew H. Sywers, Esq.”

All documents submitted to the United States Patent and Trademark Office (“USPTO” or “Office”) must be personally signed. *See* Trademark Manual of Examining Procedure (“TMEP”) §§ 611.01(b) and 611.01(c) (citing 37 C.F.R. §§ 2.193(a)(1) and (c)(1)). Another person (e.g., paralegal, legal assistant, secretary) may not sign the name of an attorney, qualified practitioner, or other authorized signatory. *See* TMEP §§ 611.01(b) and 611.01(c) (citing *In re Dermahose Inc.*, 82 USPQ2d 1793 (TTAB 2007); *In re Cowan*, 18 USPQ2d 1407 (Comm’r Pats. 1990)).

A person signing a document electronically must either (a) personally enter any combination of letters, numbers, spaces and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission; or (b) sign the verified statement using some other form of electronic signature specified by the USPTO Director. *See* 37 C.F.R. § 2.193(c). Hence, for electronic signatures — including electronic signatures on submissions filed through the USPTO’s Trademark Electronic Application System— the person(s) identified as the signatory must personally and manually enter the elements of the electronic signature. *See generally* TMEP §§ 611.01(b) and 611.01(c). Just as signing the name of another person on paper does not serve as the signature of the person whose name is written, typing the electronic signature of another person is not a valid signature by that person. *See* TMEP § 611.01(c).

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For all documents filed in the Office in trademark matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed or inserted by such practitioner, in compliance with 37 C.F.R. § 2.193(a). *See* 37 C.F.R. § 11.18(a).

The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any document by any person, whether a practitioner or non-practitioner, constitutes a certification under 37 C.F.R. § 11.18(b). *See* 37 C.F.R. § 2.193. Violations of 37 C.F.R. § 11.18(b) may jeopardize the validity of the application or registration, and may result in the imposition of sanctions under 37 C.F.R. § 11.18(c). *See id.* Any practitioner violating 37 C.F.R. § 11.18(b) may also be subject to disciplinary action. *See id.* (citing 37 C.F.R. §§ 10.23(c)(15) and 11.18(d)).

Second Request for Information and Evidence

Part of the inquiry being conducted by OED in connection with the above referenced trademark matters concerns your client's compliance with USPTO electronic signature rules. We require additional information from your client about the electronic signatures appearing in trademark applications for which he is the attorney of record. Accordingly, we request:

1. For each submission filed electronically under the name "Matthew H. Swyers" or "Matthew H. Sywers, Esq." in each of the above referenced trademark applications, please have your client state: (a) whether he personally entered the combination of letters, numbers, spaces and/or punctuation marks that he has adopted as a signature (e.g., "Matthew H. Swyers" or "Matthew H. Sywers, Esq.") placed between two forward slash ("/") symbols in the signature block on the electronic submission, or (b) whether he had another person enter the combination of letters, numbers, spaces and/or punctuation marks that your client has adopted as a signature placed between two forward slash ("/") symbols in the signature block on the electronic submission.

2. For each submission filed electronically under the name "Matthew H. Swyers" or "Matthew H. Sywers, Esq." in each of the above referenced trademark applications, please have your client identify each submission filed electronically under the name "Matthew H. Swyers" or "Matthew H. Sywers, Esq." for which your client did not personally enter the combination of letters, numbers, spaces and/or punctuation marks that he has adopted as a signature placed between two forward slash ("/") symbols in the signature block on the electronic submission.

3. For each submission identified in your client's response to Question #2 above, please have your client (a) explain why he did not personally enter the combination of letters, numbers, spaces and/or punctuation marks that he has adopted as a signature placed between two forward slash ("/") symbols in the signature block on the electronic submission, and (b) provide any additional information or comment that he believes may be helpful to the OED Director's understanding of why your client did not personally enter the combination of letters, numbers, spaces and/or punctuation marks that he has adopted as a signature placed between two forward slash ("/") symbols in the signature block on the electronic submission.

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4. Save for the submissions identified in your client's response to Question #2 above, please have your client identify all other submissions filed electronically under the name "Matthew H. Swyers" or "Matthew H. Sywers, Esq." with the USPTO in trademark applications for which your client did not personally enter the combination of letters, numbers, spaces and/or punctuation marks that he has adopted as a signature placed between two forward slash ("/") symbols in the signature block on the electronic submission.

Please provide your responses on or before January 9, 2015.

Rules under Consideration and Other Information

In connection with this request for information, some of the provisions of the USPTO Code of Professional Responsibility under consideration are 37 C.F.R. §§ 10.23(a), 10.23(b)(4), 10.23(b)(5), 10.23(b)(6), 10.23(c)(2)(ii), 10.23(d), 10.77, 10.84(a), 10.85(a)(5), and 10.89(c)(6). And some of the provisions of the USPTO Rules of Professional Conduct under consideration are: 37 C.F.R. §§ 11.101, 11.303, 11.804(c), 11.804 (d), and 11.804(i).

This is your opportunity pursuant to 5 U.S.C. § 558(c), if appropriate, to demonstrate that you are or have come into compliance with the USPTO Code of Professional Responsibility and/or Rules of Professional Conduct. It is a violation of the USPTO Rules of Professional Conduct to fail to cooperate with OED in an investigation of any matter before it, or to knowingly fail to respond to a request from OED. See 37 C.F.R. § 11.801(b). In addition, if you do not respond to this request for information, the Committee on Discipline may draw an adverse inference in making a determination under 37 C.F.R. § 11.23. See *Baxter v. Palmigiano*, 425 U.S. 308 (1976).

We will attempt to verify the statements in your response just as we do with the information provided to us. For this reason, and because an attorney authorized to represent others in trademark matters before the Office could be subject to discipline for making a materially false statement or deliberately failing to disclose a material fact in connection with a disciplinary matter (see 37 C.F.R. §§ 11.804(c) and (d)), you should accurately set forth your factual statements.

The OED Director will make no determination for disposition of this matter until you have been afforded an opportunity to fully state your position with respect thereto within twenty-one (21) days from the date of this letter, *i.e.*, **January 9, 2015**. Extensions of time may be granted upon entering into a written tolling agreement with the OED Director to toll the one-year period for filing a complaint under 37 C.F.R. § 11.34(d). See 37 C.F.R. § 11.34(e).

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If you have any questions, do not hesitate to contact OED at (571) 272-4097. Please address your client's response to Mail Stop OED, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, and refer to OED file number G2423 in the heading of your response.

Sincerely,



Leonardo Villarreal Alejandro
Staff Attorney
Office of Enrollment and Discipline

EXHIBIT B



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

Mr. Steven Lipman
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

CERTIFIED MAIL _____
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: File No. G2423, Matthew Swyers
LACK OF RESPONSE TO OED'S THIRD REQUEST FOR INFORMATION AND
EVIDENCE UNDER 37 C.F.R. § 11.22(f)

Dear Mr. Lipman:

The Office of Enrollment and Discipline ("OED") of the United States Patent and Trademark Office ("USPTO" or "Office") has received the response of your client, Mr. Matthew Swyers, dated April 15, 2015, to OED's Third Request for Information ("Third RFI"). However, Mr. Swyers did not provide a full and complete response to Question Two of OED's Third RFI. His failure to do so raises ethical considerations under 37 C.F.R. § 11.801(b).

The Third RFI included a request for Mr. Swyers to identify current and former employees of his company. The specific request for information that is the subject of this letter reads as follows:

Please provide the full names, mailing addresses and personal telephone numbers for all of the current and former employees of The Trademark Company. This list should also include non-paid interns, clerks, and volunteers.

The above request is lawful. *See* 37 C.F.R. §§ 11.22(a) and 11.22(f)(1)(ii). It is a straightforward request for unprivileged information. It seeks the names and contact information of persons who are likely to have firsthand information regarding the alleged misconduct under investigation in OED File No. G2423. Those persons are material witnesses who will be able to provide statements that may rebut or corroborate key facts and otherwise provide exonerating or incriminating evidence. Mr. Swyers has a duty to cooperate with OED in the conduct of its investigation. *See* § 11.801(b). Yet, instead of complying with his duties under § 11.801(b), Mr. Swyers provided the name of only one current employee, (*see* April 15, 2015 Response at 24, ¶ 42), but he withheld that employee's address and telephone number(s). And instead of providing all of the requested information, Mr. Swyers raised what are reasonably viewed as

Mr. Matthew Swyers
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frivolous, conclusory, and vague objections. His objections to the above request are discussed below.

To begin, Mr. Swyers objected to providing the names, addresses, and telephone numbers of his employees by claiming that the request is “overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, probative, non-redundant, and relevant evidence or information.” *See* April 15, 2015 Response at 8, ¶ 11(i). Mr. Swyers’ withholding of material information from the OED Director for this reason does not appear to be justified for at least three reasons. First, the USPTO Rules of Professional Conduct do not allow for any such objection. Second, Mr. Swyers’ assertion that the request is “overly broad” and “unduly burdensome” is directly contrary to his representation to OED that his company has very few current and former employees, namely: 14 current employees (including two interns), 15 former employees, and 10 former non-paid interns. *See* April 15, 2015 Response at 24, ¶ 40. Third, the names and contact information of persons who are likely to be able to corroborate or rebut the allegations of misconduct under investigation are unquestionably calculated to lead to the discovery of probative, non-redundant, and relevant evidence. Indeed, Mr. Swyers admitted that he did not know how many trademark application submissions were improperly signed by his current or former employees. *See* April 15, 2015 Response at 7, ¶ 8. Standing alone, his admission makes the request plainly relevant.

It is also noted that Mr. Swyers personally certified to OED that he conducted a reasonable inquiry into the issue and is representing to OED that there is evidentiary and legal support for his claim that the request for witness names and contact information is “overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible, probative, non-redundant, and relevant evidence or information.” However, he did not provide any evidentiary support or rationale for the objection. This failure—especially in light of his admission—further suggests the objection is baseless.

Next, Mr. Swyers did not provide the names, addresses, and telephone numbers for the witnesses based on an objection to the lack of instructions or definitions in the Third RFI: “Respondent objects to each instruction or definition (or lack thereof), of each of OED’s requests to the extent they seek admissible, probative, non-redundant, and relevant evidence or information that are protected from disclosure by the attorney-client privilege, deliberative process privilege, attorney work product doctrine, any other applicable privilege, etc.” *See* April 15, 2015 Response at 8, ¶ 11(ii). Mr. Swyers’ failure to provide the requested information based on this objection also seems to lack reasonable justification. First, objecting to a lack of instructions or definitions seems plainly frivolous when the requested information (names, addresses, and telephone numbers) is unambiguous, as it is here. Second, the USPTO Rules of Professional Conduct do not allow for such objections, i.e., Mr. Swyers’ reliance on 37 C.F.R. § 11.106 as a basis for not providing the information is misplaced. Section 11.106 concerns the confidentiality of client information relating to the representation of a client. *See* 37 C.F.R. §§ 11.106(a) and 11.106(b). The requested names of witnesses and contact information do not constitute confidential client information relating to the representation of a client. Third, Mr. Swyers asserts privileges that seemingly do not apply. The requested names, addresses, and telephone numbers of witnesses are basic information. They are not confidential communications between an attorney and a client for the

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purpose of seeking, obtaining, or providing legal assistance to the client (as is required for assertion of the attorney-client privilege); not communications that are part of a governmental decision-making process (as is required for assertion of the deliberative process privilege); and not information prepared by counsel in anticipation of litigation (as is required for assertion of the attorney-work product doctrine). Again, Mr. Swyers did not provide any explanation of how the asserted privileges apply as he would have reasonably been expected to do in light of his personal certification to OED that he conducted a reasonable inquiry into the legal issues and formed the belief that the assertions of privilege are warranted by existing law or by a non-frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law. Accordingly, there appears to be no factual or legal justification for this objection.

Mr. Swyers also objected to providing witness information in response to the Third RFI “to the extent they are oppressive or unnecessarily expensive.” *See* April 15, 2015 Response at 9, ¶ 11(iii). This objection is seemingly frivolous, as well. It cannot be reasonably argued that producing the names, addresses, and telephone numbers of 39 witness is oppressive or unnecessarily expensive. For example, it is reasonable to believe that it would cost Mr. Swyers nothing and take him less than 15 minutes to obtain the requested information for the 15 current employees of The Trademark Company. Yet, Mr. Swyers provided no explanation why it would be unduly burdensome or expensive to obtain this information. It is troublesome that Mr. Swyers asserted this objection in light of his personal certification to OED that he conducted a reasonable inquiry on the matter and represented to OED that the potentially “oppressive” or “unnecessarily expensive” nature of the request has evidentiary support.

Finally, Mr. Swyers objected to the Third RFI “to the extent they do or may violate, or do or may adversely impact, the privacy of TMC personnel in general or under Federal, or State law in particular” and “to the extent they do or may violate, or do or may adversely impact, the legal rights of TMC personnel under Federal or State law.” *See* April 15, 2015 Response at 9, ¶ 11(iv) and (v). The objection seems frivolous because it cannot be reasonably argued that producing the requested names, addresses, and telephone numbers of persons who likely possess material information about the issues being investigated by OED violates any federal or state law and/or adversely impacts the witnesses’ legal rights. Again, it is worrisome that Mr. Swyers has not identified any such law or provided any explanation for his conclusory assertions in light of his personal certification to the OED Director that (a) he conducted a reasonably inquiry into the issue and (b) believes that his assertions regarding the unidentified Federal and State laws are warranted.

In sum, it is the position of the OED Director that Mr. Swyers is required to provide the requested information. *See* 37 C.F.R. § 11.801(b). Accordingly, the purpose of this letter is two-fold: (1) to provide Mr. Swyers with notice of the adverse consequences that may arise when a registered practitioner does not comply with § 11.801(b), and (2) to provide Mr. Swyers with a second and final opportunity to respond fully to the Third RFI. Regarding the former, a failure to respond and or a failure to respond fully to an RFI entitles the Committee on Discipline, when making a determination under 37 C.F.R. § 11.32, to draw an adverse inference regarding omissions to assert what would naturally have been asserted under the circumstances. *See Baxter v. Palmigiano*, 425 U.S. 308 (1976). Moreover, a practitioner who violates § 11.801(b) is subject to discipline.

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Accordingly, we again request that Mr. Swyers provide a complete and accurate response to the following request for information:

Please provide the full names, mailing addresses and personal telephone numbers for all of the current and former employees of The Trademark Company. This list should also include non-paid interns, clerks, and volunteers.

We also invite Mr. Swyers to provide specific factual and legal support for any objections raised, as well as any other information he believes will be helpful to the OED Director in examining the issues raised in this letter, in his response

We request that the response be received by OED within seven (7) days of the date of this letter, i.e., by April 23, 2015. Please have Mr. Swyers address his response to Mail Stop OED, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, and refer to OED file number G2423 in the heading.

It is also important for Mr. Swyers to understand that it is OED's obligation to develop all information relevant to the information received in his response to this letter, including information that may justify or exonerate the alleged actions of a registered practitioner or mitigate the seriousness of any violations that may have occurred in connection with the issues raised in this letter. Thus, as mentioned, Mr. Swyers' response may result in a decision to dismiss the matter addressed in this letter or to pursue action under 37 C.F.R. § 11.32. The OED Director, however, will make no determination for disposition of the matter addressed in this letter until Mr. Swyers has been afforded an opportunity to fully state his position within seven (7) days of the date of this letter.

This is Mr. Swyers' opportunity pursuant to U.S.C. § 558(c), if appropriate, to demonstrate that he is or has come into compliance with § 11.801(b). We will attempt to verify the statements in his response to this letter just as we do with other the information provided to us. For this reason, and because a practitioner could be subject to discipline for making a materially false statement or deliberately failing to disclose a material fact in connection with a disciplinary matter (*see* 37 CFR §§ 11.804(c) and 11.804(d)), Mr. Swyers should accurately set forth his factual statements.

If you or Mr. Swyers have any questions about this letter, you should not hesitate to contact OED at (571) 272-4097.

Sincerely,

Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline

EXHIBIT C



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Ann Hammock
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Ann Hammock
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Ann Hammock:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Amanda Harke
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Amanda Harke
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Amanda Harke:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (e.g., telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

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86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
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86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

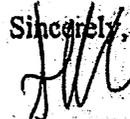
Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,


Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Ashley Jones
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Ashley Jones
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Ashley Jones:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Valerie Kuhar
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Valerie Kuhar
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Valerie Kuhar:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

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If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

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If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

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Page 6

Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,


Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Kevin Liu
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Kevin Liu
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Kevin Liu:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

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Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

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Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

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Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

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Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (e.g., telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

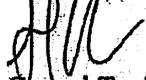
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Laura Mitterling
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Laura Mitterling
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Laura Mitterling:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

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Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

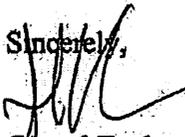
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Stacy Olive
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Stacy Olive
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Stacy Olive:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

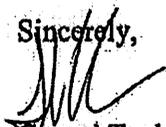
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Jennifer Pendergraft
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Jennifer Pendergraft
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Jennifer Pendergraft:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

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Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

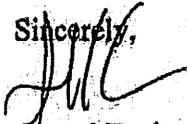
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Kellie Reese
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Kellie Reese
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Kellie Reese:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

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Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (*e.g.*, “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (*e.g.*, “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

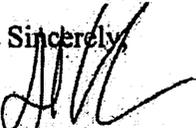
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Ms. Jessica Reynolds
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Ms. Jessica Reynolds
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Ms. Reynolds:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, stating that he “anticipated” and “hoped” to be formally designated by you as your attorney in this matter. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written

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responses to your attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

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Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.
- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

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Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the

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trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

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Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

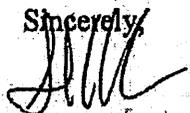
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Courtney Sission
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Courtney Sission
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Courtney Sission:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
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86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Page 14

Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

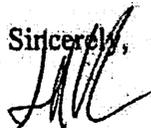
Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,


Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Shannon Strayhorn
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Shannon Strayhorn
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Shannon Strayhorn:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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Page 3

- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Page 6

Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Page 10

Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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Page 11

The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
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86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Page 15

Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

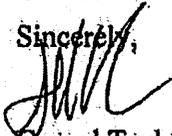
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Paul Szulak
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Paul Szulak
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Paul Szulak:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
Page 2

attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

Office of Enrollment and Discipline Investigation
Page 3

- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Office of Enrollment and Discipline Investigation
Page 4

Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

Office of Enrollment and Discipline Investigation
Page 5

Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

Office of Enrollment and Discipline Investigation
Page 6

Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

Office of Enrollment and Discipline Investigation
Page 7

Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Office of Enrollment and Discipline Investigation
Page 8

Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

Office of Enrollment and Discipline Investigation
Page 9

States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

Office of Enrollment and Discipline Investigation
Page 10

Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (e.g., telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

Office of Enrollment and Discipline Investigation
Page 11

The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

Office of Enrollment and Discipline Investigation
Page 12

Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

Office of Enrollment and Discipline Investigation
Page 13

Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

Office of Enrollment and Discipline Investigation
Page 14

Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

Office of Enrollment and Discipline Investigation
Page 15

Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

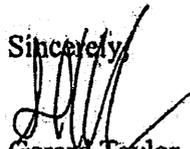
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline

Office of Enrollment and Discipline Investigation
Page 15

Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

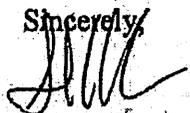
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Courtney Sission
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Courtney Sission
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Courtney Sission:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

Office of Enrollment and Discipline Investigation
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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Shannon Strayhorn
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Shannon Strayhorn
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Shannon Strayhorn:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

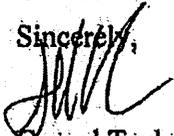
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

May 7, 2015

Paul Szulak
c/o Steven E. Lipman, Esquire
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

Paul Szulak
c/o Steven E. Lipman, Esquire
142 Warren Avenue #2
Boston, Massachusetts 02116

PERSONAL AND CONFIDENTIAL

Re: Office of Enrollment and Discipline Investigation
Request for Information and Assistance Pursuant to 37 C.F.R. § 11.22(f)(1)(iii)

Dear Paul Szulak:

The Office of Enrollment and Discipline of the United States Patent and Trademark Office is investigating certain trademark applications and trademark documents filed by and through The Trademark Company of Cary, North Carolina. During our investigation, we received information indicating that you are a current employee of The Trademark Company. Because we reasonably believe that you are, or may be, a material witness who possesses firsthand information in connection with our investigation, this letter requests information from you. *See* 37 C.F.R. § 11.22(f)(1)(iii).

This is an important matter. Therefore, we ask that you respond fully, accurately, and candidly to each request set forth above. Please respond in writing, and please personally sign your response. Your responses are expected to be truthful. *See* 18 U.S.C. § 1001.

Please complete your responses in a timely manner. Specifically, please complete your responses so that the Office of Enrollment and Discipline will receive them within 21 days of the date of this letter, *i.e.*, by **May 28, 2015**.

Steven E. Lipman provided information to us on May 6, 2015, suggesting that he might become your attorney in connection with our investigation. If Mr. Lipman (or another attorney) is representing you in our investigation, please provide your signed, written responses to your

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attorney who, in turn, will forward it to the Office of Enrollment and Discipline by the May 28, 2015 due date. Please have your attorney send your responses to us by mailing them to:

Mail Stop OED
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

If you are not represented by an attorney in connection with our investigation, you may send your signed, written responses to us at the above address.

Requests for Information

Request No. 1

Please state your full legal name.

Request No. 2

Please state your home address and telephone number.

Request No. 3

Please state whether you received and read the May 7, 2015 letter addressed to you c/o Mr. Lipman that transmitted these requests for information.

Request No. 4

Please state whether Steven E. Lipman is your attorney in connection with the Office of Enrollment and Discipline's investigation described in our May 7, 2015 letter.

Request No. 5

Please state whether you are related to any employee or owner of The Trademark Company by blood or by law. If you are related to any employee or owner of The Trademark Company, please (a) identify each such employee or owner and (b) explain the nature of your relationship to each such person.

Request No. 6

Are you presently employed by The Trademark Company? If so:

- a) Please state the title of your current position at The Trademark Company.
- b) Describe fully the duties of your current position.

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- c) Please state the date on which you first began working for The Trademark Company.
- d) Please state the titles of all positions you have held at The Trademark Company and the dates during which you held each such position.
- e) Please describe fully your duties for each position you identified in your response to Request No. 6, part d.

Request No. 7

Please state the names, addresses, and telephone numbers of all persons who were employed with you at The Trademark Company but who are no longer employed at The Trademark Company (*i.e.*, please identify all former employees of The Trademark Company).

Request No. 8

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always participate in each verbal communication between you and the potential client?

Request No. 9

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each electronic communication prior to the actual electronic communication being sent to the potential client?

Request No. 10

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a potential client of The Trademark Company about the potential client seeking to register a trademark before the United States Patent and Trademark Office?

Request No. 11

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

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Request No. 12

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (e.g., telephonically or face-to-face) with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 13

If you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 14

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark application that you were preparing on the client's behalf?

Request No. 15

Have you ever prepared a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office without the actual application being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared a trademark application between January 1, 2010, and January 28, 2015?

Request No. 16

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have typed, affixed, stamped, or signed anyone's name but your own name between January 1, 2010, and January 28, 2015?

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Request No. 17

If you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a trademark application that was filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 18

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 19

Have you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company without the actual response being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or trademark application serial numbers in which you prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 20

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 21

If you ever prepared a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark

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Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 22

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 23

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a response between January 1, 2010, and January 28, 2015?

Request No. 24

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a response to an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 25

Have you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 26

Have you ever prepared an amendment regarding a trademark application filed with the United States Patent and Trademark Office by The Trademark Company without the actual amendment being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such an amendment between January 1, 2010, and January 28, 2015?

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Request No. 27

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 28

If you ever prepared an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 29

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 30

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such an amendment between January 1, 2010, and January 28, 2015?

Request No. 31

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to an amendment regarding a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

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Request No. 32

Have you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 33

Have you ever prepared a statement of use for a trademark application with the United States Patent and Trademark Office filed by The Trademark Company without the actual statement of use being reviewed by Matthew H. Swyers prior to filing? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 34

Prior to January 28, 2015, have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office that you were preparing on the client's behalf? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 35

Prior to January 28, 2015, have you ever communicated via email, text, or instant message with a client of The Trademark Company about a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 36

If you ever prepared a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a statement of use for an Office action issued by the United States Patent and Trademark Office regarding a trademark application filed by The Trademark Company?

Request No. 37

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United

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States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers for which you have prepared such a statement of use between January 1, 2010, and January 28, 2015?

Request No. 38

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a statement of use for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 39

For purposes of these requests, the term "trademark research report" means a report prepared by The Trademark Company intended to uncover trademark rights that may conflict with a client's mark and goods/services classification.

Have you ever communicated verbally (*e.g.*, telephonically or face-to-face) with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the client?

Request No. 40

Have you ever communicated via email, text, or instant message with a client of The Trademark Company about a trademark research report? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the client?

Request No. 41

What instructions, if any, did Matthew H. Swyers provide to you about communicating with a client of The Trademark Company about a trademark research report ?

Request No. 42

If you ever prepared a trademark research report for a client of The Trademark Company, please respond to the following:

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with the client about trademark research report(s) you prepared for a client(s)?

Request No. 43

Have you ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States

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Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which you typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration between January 1, 2010, and January 28, 2015?

Request No. 44

If you have ever typed, affixed, stamped, or signed anyone's name, other than your own name, to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office, please explain fully why you did so (including any directions you received from any principal or employee of The Trademark Company).

Request No. 45

Prior to January 28, 2015, did you ever speak with any owner or employee of The Trademark Company about typing, affixing, stamping, or signing anyone's name, other than your own name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, for each such conversation, please (a) state the name of the person with whom you had such conversation(s), (b) state the date of the conversation(s), and (c) describe fully the conversation(s).

Request No. 46

Prior to January 28, 2015, did Matthew H. Swyers ever tell or instruct you to type, affix, stamp, or sign his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office? If so, please (a) state the date(s) on which he told you to do so and (b) describe fully his discussions with you.

Request No. 47

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about typing, affixing, stamping, or signing his name to a declaration for a trademark application filed by The Trademark Company with the United States Patent and Trademark Office?

Request No. 48

Have you ever communicated verbally (e.g., telephonically or face-to-face) with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by The Trademark Company? If so, did Matthew H. Swyers always participate in each such verbal communication between you and the Examining Attorney?

Request No. 49

Have you ever communicated via email, text, or instant message with a United States Patent and Trademark Office Trademark Examining Attorney regarding a trademark application filed by

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The Trademark Company? If so, did Matthew H. Swyers always review each such electronic communication prior to the actual electronic communication being sent to the Examining Attorney?

Request No. 50

Prior to January 28, 2015, what instructions, if any, did Matthew H. Swyers provide to you about communicating with United States Patent and Trademark Office Trademark Examining Attorneys regarding trademark applications filed by The Trademark Company?

Request No. 51

A representative of The Trademark Company has informed the Office of Enrollment and Discipline that the specimen of use filed by The Trademark Company on behalf of Jason Price in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE" was not an accurate depiction of the mark as it was used in commerce by the client. According to The Trademark Company representative, the mark was allegedly created as an example for The Trademark Company client but then the false specimen was allegedly inadvertently filed with the United States Patent and Trademark Office. The trademark application and the referenced specimen of use are accessible at <http://tsdr.uspto.gov>.

Are you The Trademark Company employee who created the false specimen of use filed by The Trademark Company in U.S. Trademark Application No. 86287285 for the mark "SOUL INSIDE"?

Request No. 52

Have you ever created a specimen of use for a client of The Trademark Company? If so, on how many occasions? If so, why did you do so?

What instructions, if any, did Matthew H. Swyers provide to you about specimens of use for clients of The Trademark Company?

Request No. 53

Between January 1, 2010, and January 28, 2015, did you create any specimens of use for any client of The Trademark Company that was filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which any such specimens of use were filed?

For each specimen of use that you created for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 54

Between January 1, 2010, and January 28, 2015, did you ever modify in any way (e.g., “photo shop,” digitally alter, *etc.*) a specimen of use for a client of The Trademark Company that was thereafter filed with the United States Patent and Trademark Office? If so, do you believe that you are able to identify the clients and/or the trademark application serial numbers in which the specimens of use were so modified by you?

For each specimen of use that you modified (e.g., “photo shopped,” digitally altered, *etc.*) for a client of The Trademark Company between January 1, 2010, and January 28, 2015, and that was thereafter filed with the United States Patent and Trademark Office, please state whether you believe Matthew H. Swyers knew that the specimen of use had been modified by you prior to it being filed with the United States Patent and Trademark Office.

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Request No. 55

The table below identifies specimens of use filed by The Trademark Company with the United States Patent and Trademark Office in referenced trademark application files. The trademark applications and the referenced specimens of use are accessible at <http://tsdr.uspto.gov>.

Trademark Application	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (JUNE 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (MAY 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)
86287301	(DESIGN MARK) (MAY 21, 2014 SPECIMENS and JANUARY 12, 2015 SPECIMENS)

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Please state whether you performed any services for clients of The Trademark Company in connection with the applications listed in the above table. If so, please (a) identify the applications on which you worked and (b) explain the work you performed in each such application.

Request No. 56

Please state whether you created or modified (*e.g.*, photo shopped, digitally altered, *etc.*) any of the specimens of use identified in the table set forth in Request No. 55. If so, please (a) identify each such specimen and (b) explain how you created or modified each such specimen.

Request No. 57

For each specimen identified in your response to Request No. 56, please state whether you believe Matthew H. Swyers knew that the specimen of use had been created or modified by you prior to it being filed with the United States Patent and Trademark Office.

Request No. 58

Does The Trademark Company maintain documents or electronically stored information that can identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application? If so, please identify those types of documents or information.

Request No. 59

Do The Trademark Company's invoices to its clients contain information that would identify The Trademark Company employee(s) who worked on a given trademark application and/or any filings in a given application?

Request No. 60

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the number of trademark application filings on which you worked? If so, please explain fully.

Request No. 61

At any point during your employment with The Trademark Company, was any percentage of your compensation (*e.g.*, salary, wages, bonuses, *etc.*) based on the income you generated for The Trademark Company? If so, please explain fully.

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Request No. 62

Has anyone assisted you in responding to the above requests? If so, please (a) state the name(s) and address(es) of each such person who assisted you and (b) fully explain the assistance provided.

Request No. 63

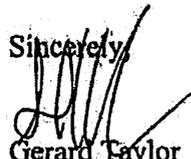
Did anyone review your responses to the above requests? If so, please (a) state the name(s) and address(es) of each such person who reviewed them and (b) fully explain the why such person reviewed them.

Request No. 64

Do you declare under penalty of perjury that each of your responses to each of the foregoing requests is true and correct?

Thank you for your cooperation and assistance in responding to this letter.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline

Re: Matthew H. Swyers
OED File No. G2423

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if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company" to limit the liability to such trademark applicant?

- 5) If Mr. Swyers or TMC relied on the portion of the TMC website that reads "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company" to limit the liability to a trademark applicant who alleged breach of contract and/or professional negligence against Mr. Swyers and/or TMC, please state the name, address, and telephone number of each such trademark applicant.
- 6) Is it Mr. Swyers' position that his liability to trademark applicants for professional malpractice is limited by the portion of the TMC website that reads "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company"? If so, please explain the factual and legal basis for his position. Please include any ethics opinion(s) obtained by Mr. Swyers prior to the quoted language appearing on the TMC website.
- 7) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about why the language "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company" appears on the TMC website. Please include any ethics opinion(s) obtained by Mr. Swyers prior to the quoted language appearing on the TMC website.

L. Issues: Possible Professional Misconduct in Connection with Possible False Certifications to the Office and Possible Knowingly Filing Papers in the Office Without Ensuring the Accuracy of the Papers Filed

When a practitioner presents a document to the Office in a trademark matter, the practitioner certifies that, to the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, (1) the paper is not being presented for any improper purpose, (2) the other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law, and (3) the allegations and other factual contentions have evidentiary support. *See generally* 37 C.F.R. § 11.18(b).

A practitioner shall provide competent representation to a client, which includes thoroughness and preparation reasonably necessary for the representation. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner shall act with reasonable diligence and promptness in representing a client. *See* 37 C.F.R. § 11.103. A practitioner shall not bring a proceeding or assert an issue therein unless there is a basis in law and fact for doing so that is not frivolous. *See* 37 C.F.R. § 10.23(c)(15) and 37 C.F.R. § 11.301.

EXHIBIT D



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

Mr. Steven E. Lipman
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Steven E. Lipman
142 Warren Avenue #2
Boston, Massachusetts 02116

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: File No. G2423, Matthew H. Swyers
FOURTH REQUEST FOR INFORMATION AND EVIDENCE UNDER 37 CFR § 11.22(f)

Dear Mr. Lipman:

In light of information gathered to date (including verbal and written information received from your client, Matthew H. Swyers) the Office of Enrollment and Discipline ("OED") has additional questions regarding the manner in which the over fifteen thousand (15,000) trademark applications and related trademark application submissions were filed in the United States Patent and Trademark Office ("USPTO" or "Office") by Mr. Swyers personally and through his law firm, The Trademark Company, PLLC ("TMC"), since January 1, 2010.

The OED Director will make no determination for disposition of the matters raised in this letter until Mr. Swyers has been afforded an opportunity to fully state his position. This letter is also an opportunity under 5 U.S.C. § 558(c), if appropriate, for Mr. Swyers to demonstrate that he has been in, or has come into, compliance with the USPTO Code of Professional Responsibility and USPTO Rules of Professional Conduct.

Requests for Information¹

A. Issue: Possible Professional Misconduct in Connection with Mr. Swyers Possibly Knowingly Allowing Others to Sign of Trademark Applications and Trademark Application Submissions Filed in the Office under Mr. Swyers' Name

It is professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, *see* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c), conduct that is prejudicial to the administration of justice, *see* 37 C.F.R. § 10.23(b)(5) and 37 C.F.R. § 11.804(d), and other conduct that adversely reflects on the practitioner's fitness to practice

¹ Please see "Instructions" at page 35, below.

Re: Matthew H. Swyers
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before the Office, *see* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i). Moreover, a practitioner shall provide competent representation to a client, which includes thoroughness and preparation reasonably necessary for the representation. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner has significant ethical responsibilities regarding non-practitioner assistance. *See* 37 C.F.R. § 11.503

In his April 15, 2015 letter to OED, Mr. Swyers alleged that he personally and individually signed many, but not all, trademark documents filed in the Office by and through TMC. *See* April 15, 2015 letter at p. 7, ¶ 8. He stated that others electronically signed his name to trademark documents filed in the Office. *See id.* ("However, some entering of my name on other e-signatures was done by the well-trained and well-experienced Research and Applications Specialists (of an unknown number of times by the unknown names of the Research and Applications Specialists who entered those e-signatures.)"). In his April 15, 2015 letter, Mr. Swyers also alleged that the electronic signing of trademark applications and responses to Office actions were "done by me and the Research and Application Specialists as a group or collective effort." *See id.* at p. 4, ¶ 4. Mr. Swyers' April 15, 2015 written representations to OED seem to conflict with Mr. Swyers' verbal representations to OED that, to the best of his knowledge, he personally signed every trademark document filed in the USPTO by and through TMC.

In his April 15, 2015 letter, Mr. Swyers also alleged that he did not know the "detailed aspects" of the USPTO trademark prosecution signature rules. *See id.* at p. 6, ¶ 7.

Since January 2010, Mr. Swyers filed, or caused to be filed, thousands of trademark applications and trademark application submissions (*e.g.*, responses to Office actions, statements of use, amendments to allege use, and declarations) in the Office. Based on (a) Mr. Swyers' admission that he allowed other persons to sign his name to trademark applications and trademark application submissions filed in the Office under his electronic signature, and (b) Mr. Swyers' alleged ignorance of well-known USPTO signature rules, there is evidence suggesting that Mr. Swyers may have violated numerous ethical duties that he owes to TMC trademark applicants, to the Office, to the public, and to the legal profession. Therefore, additional information is requested from Mr. Swyers as follows:

- 1) Please state whether, before January 28, 2015, any former employee of TMC ever signed a trademark application that was filed in the Office under Mr. Swyers' electronic signature.
- 2) If, before January 28, 2015, any former employee of TMC ever signed a trademark application that was filed in the Office under Mr. Swyers' electronic signature, please explain why the former employee(s) did so, including whether Mr. Swyers instructed the former employee(s) to do so.

Re: Matthew H. Swyers
OED File No. G2423

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- 3) Please state whether, before January 28, 2015, any current employee of TMC ever signed a trademark application that was filed in the Office under Mr. Swyers' electronic signature.
- 4) If, before January 28, 2015, any current employee of TMC ever signed a trademark application that was filed in the Office under Mr. Swyers' electronic signature, please explain why the current employee(s) did so, including a description of whether Mr. Swyers instructed the current employee(s) to do so.
- 5) Please state whether, before January 28, 2015, Mr. Swyers had a practice and/or policy of allowing other persons to sign his name to trademark applications that were filed in the Office under Mr. Swyers' electronic signature. If so, please describe fully the practice and/or policy.
- 6) Please state whether, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to a response to an Office action that was filed in the Office.
- 7) If, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to a response to an Office action that was filed in the Office, please explain why the former employee(s) did so, including a description of whether Mr. Swyers instructed the former employee(s) to do so.
- 8) Please state whether, before January 28, 2015, any current employee of TMC ever signed Mr. Swyers' electronic signature to a response to an Office action that was filed in the Office
- 9) If, before January 28, 2015, any current employee of TMC ever signed Mr. Swyers' electronic signature to a response to an Office action that was filed in the Office, please explain why the current employee(s) did so, including a description of whether Mr. Swyers instructed the current employee(s) to do so.
- 10) Please state whether, before January 28, 2015, Mr. Swyers had a practice and/or policy of allowing other persons to sign his name to responses to Office actions that were filed in the Office. If so, please describe fully the practice and/or policy.
- 11) Please state whether, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to a statement of use that was filed in the Office.
- 12) If, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to a statement of use that was filed in the Office, please explain why the former employee(s) did so, including a description of whether Mr. Swyers instructed the former employee(s) to do so.

Re: Matthew H. Swyers
OED File No. G2423

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- 13) Please state whether, before January 28, 2015, any current employee of TMC ever signed a statement of use that was filed in the Office under Mr. Swyers' electronic signature.
- 14) If, before January 28, 2015, any current employee of TMC ever signed Mr. Swyers' electronic signature to a statement of use that was filed in the Office, please explain why the current employee(s) did so, including a description of whether Mr. Swyers instructed the current employee(s) to do so.
- 15) Please state whether, before January 28, 2015, Mr. Swyers had a practice and/or policy of allowing other persons to sign his name to any statements of use that were filed in the Office under Mr. Swyers' electronic signature. If so, please describe fully the practice and/or policy.
- 16) Please state whether, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to any amendments to an allege use that were filed in the Office.
- 17) Please state whether, before January 28, 2015, Mr. Swyers had a practice and/or policy of allowing other persons to sign his name to amendments that were filed in the Office under Mr. Swyers' electronic signature. If so, please describe fully the practice and/or policy.
- 18) Please describe in detail what is meant by "as a group or collective effort" as that phrase was used in Mr. Swyers' April 15, 2015 Letter to OED at page 4, ¶ 4. Please describe all steps involved in the phrase "as a group or collective effort" as used in the April 15, 2015 letter.
- 19) If, before January 28, 2015, a former or current employee of TMC ever signed a trademark application or a trademark application submission other than a declaration (e.g., responses to Office actions) that was filed in the Office under Mr. Swyers' electronic signature, for each such signing please state (a) whether Mr. Swyers always personally witnessed the person sign his name, (b) whether Mr. Swyers was always physically present in the same room as the person who signed his name when the person signed his name, and (c) whether Mr. Swyers was always physically present in the same building as the person who signed his name when the person signed his name.
- 20) Before January 28, 2015, did Mr. Swyers have virtual private network ("VPN") capability that would enable him to personally electronically sign trademark applications and trademark application submissions (e.g., responses to Office actions, statements of use, amendments to allege use, and declarations) that were to be filed in the Office when, for example, Mr. Swyers was not physically present at TMC's office in Cary, North Carolina? If so, when did he first obtain such VPN capability? Did he have such VPN capability continuously from the date he first obtained it through January 28, 2015?

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- 21) If before January 28, 2015, Mr. Swyers had VPN capability that would enable him to personally electronically sign trademark applications and trademark application submissions (*e.g.*, responses to Office actions, statements of use, amendments to allege use, and declarations) that were to be filed in the Office when, for example, Mr. Swyers was not physically present at TMC's office in Cary, North Carolina, did he ever use such VPN capability to personally electronically sign trademark applications and trademark application submissions? If so, how often?
- 22) Please state the number of times Mr. Swyers allowed other persons to electronically sign his name to trademark applications and trademark application submissions other than declarations (*e.g.*, responses to Office actions, statements of use, amendments to allege use) between January 1, 2010, and January 28, 2015. If Mr. Swyers does not know the number of times, please (a) affirmatively state that he does not know the number of times, (b) explain why he does not know the number of times (*e.g.*, it was a routine practice and too many such signings occurred), and (c) provide a good faith estimate of the number of times (*e.g.*, Is it over 1,000 times? Is it over 10,000 times? Is it over 15,000 times?)
- 23) If Mr. Swyers allowed other persons to electronically sign his name to trademark applications and trademark application submissions other than declarations (*e.g.*, responses to Office actions, statements of use, amendments to allege use) between January 1, 2010, and January 28, 2015, please provide a sampling of such applications and application submissions from 2010, 2011, 2012, 2013, and 2014.
- 24) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers personally electronically signed trademark applications and trademark application submissions other than declarations that were filed in the Office under Mr. Swyers' electronic signature.
- 25) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers allowed other persons to electronically sign his name to trademark applications and trademark application submissions other than declarations that were filed in the Office under Mr. Swyers' electronic signature.
- 26) With respect to trademark applications and trademark application submissions other than declarations that were filed in the Office under Mr. Swyers' electronic signature but were not signed personally by Mr. Swyers, what steps, if any, has Mr. Swyers taken between January 28, 2015, and the date of this letter to:
- a) identify the trademark applications and trademark application submissions that were filed in the Office under Mr. Swyers' electronic signature but were not signed personally by Mr. Swyers;
 - b) identify the declarations that were filed in the Office under Mr. Swyers' electronic signature but were not signed personally by Mr. Swyers;

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- c) file submissions alerting the Office about the impermissible signing of his name to trademark applications and trademark application submissions; and/or
- d) file submissions in the Office correcting the impermissible signing of his name to trademark applications and trademark application submissions.

27) With respect to trademark applications and trademark application submissions other than declarations that were filed in the Office under Mr. Swyers' electronic signature but were not signed personally by Mr. Swyers, what steps, if any, has Mr. Swyers taken between January 28, 2015, and the date of this letter to contact the trademark applicants in such trademark applications to inform them that (i) Mr. Swyers allegedly did not know the "detailed aspects" of USPTO trademark prosecution signature rules, (ii) trademark applications and trademark application submissions filed in the Office were not or may not have been not signed by him, (iii) there are or may be significant adverse legal consequences to their intellectual property rights resulting from Mr. Swyers' failure to comply with the USPTO trademark prosecution signature rules and/or (iv) there is or may be a need to take corrective action in order to protect their intellectual property rights in light of Mr. Swyers' failure to comply with the USPTO trademark prosecution signature rules? If Mr. Swyers has not so contacted such trademark applicants as of the date of this letter, why has he not done so? If Mr. Swyers has not so contacted such trademark applicants as of the date of this letter, does Mr. Swyers intend to contact them and, if so, when? Does Mr. Swyers intend to make voluntary restitution to the trademark applicants in such trademark applications? If so, please explain his plans for doing so. If not, why not?

B. Issue: Possible Professional Misconduct in Connection with Mr. Swyers Possibly Knowingly Allowing Others to Sign His Name to Declarations Filed in the Office

It is professional misconduct for a practitioner to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c). Also, a practitioner shall not engage in conduct that is prejudicial to the administration of justice. *See* 37 C.F.R. § 10.23(b)(5) and 37 C.F.R. § 11.804(d). Also, a practitioner shall not knowingly fail to correct a false statement of material fact previously made to the tribunal by the practitioner. *See* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.303. Also, in the course of representing a client, a practitioner shall not knowingly make a false statement of material fact or law to a third person. *See* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.401(a). Also, a practitioner shall provide competent representation to a client. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. Also, a practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office. *See* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i).

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Upon information and belief, since 2010, Mr. Swyers may have caused thousands of declarations bearing his name to be electronically signed by someone other than himself and then filed in the Office.

Some declarations bearing Mr. Swyers' electronic signature and filed in the Office read as follows:

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Other declarations bearing Mr. Swyers' electronic signature and filed in the Office read as follows:

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the

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goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

If Mr. Swyers permitted other persons to electronically sign his name to declarations that were filed in the Office, then Mr. Swyers may have violated numerous ethical duties that he owed to TMC trademark applicants, to the Office, to the public, and to the legal profession. Thus, additional information is requested from Mr. Swyers as follows:

- 1) Please state whether, before January 28, 2015, any former employee of TMC ever signed Mr. Swyers' electronic signature to a declaration that was filed in the Office.
- 2) Please state whether, before January 28, 2015, any current employee of TMC ever signed Mr. Swyers' electronic signature to a declaration that was filed in the Office.
- 3) Please state whether, before January 28, 2015, any person who is not a former or current employee of TMC ever signed Mr. Swyers' electronic signature to a declaration that was filed in the Office.
- 4) If since January 1, 2010, Mr. Swyers allowed anyone to electronically sign Mr. Swyers' name to a declaration filed in the Office in trademark applications, please state the name, address, and telephone numbers of all such persons.
- 5) If since January 1, 2010, Mr. Swyers instructed anyone to electronically sign Mr. Swyers' name to a declaration filed in the Office in trademark applications, please state the name, address, and telephone numbers of all such persons.
- 6) If, before January 28, 2015, any person (including, but not limited to, former or current employees of TMC) ever signed a declaration that was filed in the Office under Mr. Swyers' electronic signature, for each such signing please state (a) whether Mr. Swyers always personally witnessed the person sign his name, (b) whether Mr. Swyers was always physically present in the same room as the person who signed his name when the person signed his name, and (c) whether Mr. Swyers was always

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physically present in the same building as the person who signed his name when the person signed his name.

- 7) If, since January 1, 2010, Mr. Swyers allowed or instructed anyone to electronically sign Mr. Swyers' name to a declaration filed in the Office in a trademark application, please state all reasons why he did so. If the reason(s) Mr. Swyers provides in his response to this request is based on Mr. Swyers' alleged ignorance of the "detailed aspects" of the USPTO trademark prosecution signature rules (*see* Mr. Swyers' April 15, 2015 letter at p. 6, ¶ 7), please explain why Mr. Swyers believed it was proper, legal, and/or otherwise permissible to have another person sign his name to a declaration regardless and independent of Mr. Swyers' alleged ignorance of the "detailed aspects" of the USPTO trademark prosecution signature rules.
- 8) Does Mr. Swyers believe that it was proper, legal, and/or otherwise permissible to have another person sign his name to a declaration filed in the Office? If not, does he admit that it was improper, illegal, and/or otherwise impermissible to have another person sign his name to a declaration filed in the Office?
- 9) If Mr. Swyers believed it was proper, legal, and/or otherwise permissible to have another person sign his name to a declaration, please provide the factual and legal basis for such belief.
- 10) Please state the number of times Mr. Swyers allowed anyone to sign electronically his name to declarations filed in the Office between January 1, 2010, and January 28, 2015. If Mr. Swyers does not know the number of times, please (a) affirmatively state that he does not know the number of times, (b) explain why he does not know the number of times (*e.g.*, it was a routine practice and too many such signings to count), (c) provide a good faith estimate of the number of times (*e.g.*, Is it over 1,000 times? Is it over 10,000 times? Is it over 15,000 times?), and (d) provide a sampling of such declarations from 2010, 2011, 2012, 2013, and 2014.
- 11) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about Mr. Swyers allowing other persons to electronically sign his name to declarations filed in the Office in trademark applications.
- 12) With respect to trademark applications, including § 2(f) applications, where Mr. Swyers allowed anyone to electronically sign Mr. Swyers' name to a declaration filed in the Office, what steps, if any, has Mr. Swyers taken between January 28, 2015, and the date of this letter to:
 - a) identify the trademark applications where such declarations were or may have been filed;
 - b) file submissions in the Office alerting the Office about such declarations; and/or

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c) file new declarations in the Office.

13) With respect to trademark applications where persons other than Mr. Swyers signed Mr. Swyers' name to declarations that were filed in the Office, please state what steps, if any, Mr. Swyers has taken, prior to the date of this letter, to contact the involved trademark applicants to inform them that (a) improper, illegal, and/or otherwise impermissible declarations were or may have been filed in the Office by Mr. Swyers and/or TMC, (b) there are or may be significant adverse legal consequences to their intellectual property rights resulting from improper, illegal, and/or otherwise impermissible declarations being or possibly being filed in the Office by Mr. Swyers or TMC and/or (c) there is or may be a need to take corrective action in order to protect their intellectual property rights in light of improper, illegal, and/or otherwise impermissible declarations being or possibly being filed in the Office by Mr. Swyers or TMC? If Mr. Swyers has not so contacted such trademark applicants prior to the date of this letter, why has he not done so? If Mr. Swyers has not so contacted such trademark applicants prior to the date of this letter, does Mr. Swyers intend to contact them and, if so, by what date? Does Mr. Swyers intend to make voluntary restitution to the trademark applicants in such trademark applications? If so, please explain his plans for doing so. If not, why not?

C. Issue: Possible Professional Misconduct in Connection with the Submission of Possibly Phony Specimens to the Office by Mr. Swyers and/or by Non-Practitioners under Mr. Swyers' Supervision

A practitioner shall provide competent representation to a client, which includes thoroughness and preparation reasonably necessary for the representation. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner has significant ethical responsibilities regarding non-practitioner assistance. *See* 37 C.F.R. § 11.503. In representing a client, a practitioner shall exercise independent professional judgment. *See* 37 C.F.R. § 10.62 and 37 C.F.R. § 11.201. A practitioner shall not bring a proceeding or assert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous. *See* 37 C.F.R. § 10.23(c)(15) and 37 C.F.R. § 11.301. It is professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, *see* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c), conduct that is prejudicial to the administration of justice, *see* 37 C.F.R. § 10.23(b)(5) and 37 C.F.R. § 11.804(d); and other conduct that adversely reflects on the practitioner's fitness to practice before the Office, *see* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i).

OED has received information indicating that Mr. Swyers filed or caused to be filed trademark specimens in the Office that are not true and accurate depictions of the genuine specimens of the marks actually used in commerce, *i.e.*, specimens that were created or digitally altered by a third person (*e.g.*, Mr. Swyers and/or former or current employees of TMC) — *i.e.*, "phony" specimens. For example, Mr. Swyers admitted in writing to OED that the specimen filed in U.S. Trademark Application No. 86287285 on May 21, 2014, was not an accurate depiction of the

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mark as it is used in commerce but, instead, was created by a current or a former TMC employee. *See* Mr. Swyers' October 29, 2014 Letter to OED at p. 3, ¶ 4.

Given that Mr. Swyers reviewed and/or was required to personally review each submission filed in the Office under his electronic signature, it appears that Mr. Swyers may have knowingly, or with reckless indifference, filed, or caused to be filed, phony specimens in the Office. Moreover, in addition to being responsible for his own conduct, Mr. Swyers is potentially responsible for the ethical misconduct of former and current employees of TMC. *See* 37 C.F.R. § 11.503. Because it appears that Mr. Swyers directly, and/or by and through the acts and omissions of former and current employees of TMC, may have violated ethical duties that he owes to TMC trademark applicants, to the Office, to the public, and to the legal profession, additional information is requested from Mr. Swyers as follows:

- 1) Please explain fully Mr. Swyers' policy(ies) and/or practice(s), if any, from January 1, 2010, through January 28, 2015, for reviewing and determining that specimens to be filed in the Office under his electronic signature were genuine samples of how the trademark applicant's mark was actually used in commerce (including, for example, conversations Mr. Swyers had about the specimens with trademark applicants and/or former or current employees of TMC).
- 2) Please explain fully Mr. Swyers' policy(ies) and/or practice(s), if any, from January 1, 2010, through January 28, 2015, for reviewing and determining whether specimens to be filed in the Office under his electronic signature would be acceptable to the USPTO under USPTO regulations and the guidelines provided in Trademark Examining Procedures Manual ("TMEP"), including, for example, TMEP §§ 904 *et seq.* and 1301, *et seq.*
- 3) From January 1, 2010, through January 28, 2015, did Mr. Swyers or TMC ever not file a U.S. trademark application, an amendment to an alleged use, or a statement of use on the basis that Mr. Swyers determined that the specimen (a) was not a genuine samples of how the trademark applicant's mark was actually used in commerce (*e.g.*, because the specimen was digitally modified), (b) did not function as a trademark, and/or (c) did not match the mark as referenced in the application? If so, state on how many occasions he did so. If Mr. Swyers does not know the number of occasions, please (a) affirmatively state that he does not know the number of occasions, (b) explain why he does not know the number of occasions, and (c) provide a good faith estimate of the number of occasions.
- 4) If, from January 1, 2010, through January 28, 2015, Mr. Swyers or TMC has ever not filed a U.S. trademark application, an amendment to an alleged use, or a statement of use on the basis that Mr. Swyers determined that the specimen (a) was not a genuine samples of how the trademark applicant's mark was actually used in commerce (*e.g.*, because the specimen was digitally modified), (b) did not function as a trademark, and/or (c) did not match the mark as referenced in the application, please provide a sampling of documents from 2010, 2011, 2012, 2013, and 2014 corroborating any such non-filing, including

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correspondence between Mr. Swyers or TMC and the trademark applicant that explains the non-filing(s).

- 5) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers reviewed, prior to filing, specimens filed in the Office under Mr. Swyers' electronic signature from January 1, 2010, through January 28, 2015.
 - 6) Since January 1, 2010, there have been thousands of trademark applications and trademark application submissions (e.g., responses to Office actions, statements of use, amendments to allege use, and declarations) filed in the Office under Mr. Swyers' electronic signature. Did Mr. Swyers personally review each trademark application and trademark application submission prior to it being filed in the Office? Please explain fully Mr. Swyers' policy(ies) and/or practice(s), if any, from January 1, 2010, through January 28, 2015, for his personal review of each trademark application and each trademark application submission prior to the application and/or submission being filed in the Office.
 - 7) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers reviewed, prior to filing trademark applications and trademark application submissions (e.g., responses to Office actions, statements of use, amendments to allege use, and declarations) from January 1, 2010, through January 28, 2015.
- D. Issue: Possible Professional Misconduct in Connection with Filing of Possibly Phony Specimens in the Office by Mr. Swyers and/or by Non-Practitioners under Mr. Swyers' Supervision (continued)**

Table One

Application Serial Number	Mark
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)
86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)

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OED has received information that indicates that specimens filed in the Office in certain trademark applications by Mr. Swyers are, or may be, phony (*e.g.*, created by Mr. Swyers or a former or current employee of TMC). Table One, above, is a sampling of such specimens. Therefore, OED seeks information from Mr. Swyers about each of the specimens listed in Table One as follows:

- 1) Does Mr. Swyers have documentary evidence (*e.g.*, an email message with attachment(s)) confirming that each specimen was obtained from the trademark applicant? If so, please provide a copy of such documents for each specimen.
- 2) Prior to the specimen being filed in the Office, did Mr. Swyers personally determine that the mark shown by the specimen functioned as a trademark and that the mark shown by the specimen was being used in commerce as of the date stated in the application? If not, why not?
- 3) Prior to the specimen being filed in the Office, did Mr. Swyers have any knowledge that the specimen was or may be phony (*i.e.*, created by Mr. Swyers or a former or current employee of TMC)?
- 4) For each trademark application listed in Table One, please provide a copy of all correspondence between TMC and the trademark applicant.

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Table Two

Application Serial Number	Mark
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (June 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (May 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)

OED has received information that indicates the specimens filed in the Office in certain trademark applications may be phony (*e.g.*, created and/or digitally altered or modified by Mr. Swyers or a former or current employee of TMC). Table Two, above, is a sampling of such specimens. Accordingly, OED seeks information from Mr. Swyers about each of the specimens listed in Table Two as follows:

- 5) Does Mr. Swyers have documentary evidence (*e.g.*, an email message with attachment(s)) confirming that each specimen was obtained from the trademark applicant? If so, please provide a copy of such documents for each specimen.
- 6) Prior to the specimen being filed in the Office, did Mr. Swyers personally determine that the mark shown by the specimen functioned as a trademark and that the mark shown by the specimen was being used in commerce as of the date stated in the application? If not, why not?

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- 7) Prior to the specimen being filed in the Office, did Mr. Swyers have any knowledge that the specimen was or may be phony (*i.e.*, created and/or digitally altered or modified by Mr. Swyers or a former or current employee of TMC)?
- 8) For each trademark application listed in Table Two, please provide a copy of all correspondence between TMC and the trademark applicant.

Table Three

Application Serial Number	Mark
86287301	(DESIGN MARK) (JANUARY 12, 2015 SPECIMENS)

OED has received information that the specimen filed in the Office in the application listed in Table Three was or may have been filed in the Office without verifying with the trademark applicant that the specimen was being used in commerce. Accordingly, OED seeks information from Mr. Swyers about the specimen listed in Table Three as follows:

- 9) Does Mr. Swyers have documentary evidence (*e.g.*, an email message with attachment(s)) confirming (a) that the specimen was obtained from the trademark applicant and (b) verifying with the trademark applicant that the specimen was being used in commerce? If so, please provide a copy of the documents.
- 10) Prior to the specimen being filed in the Office, did Mr. Swyers personally determine that the mark shown by the specimen functioned as a trademark and that the mark shown by the specimen was being used in commerce as of the date stated in the application? If not, why not?
- 11) For the trademark application listed in Table Three, please provide a copy of all correspondence between TMC and the trademark applicant.
- 12) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers reviews, prior to filing, specimens filed in the Office under Mr. Swyers' electronic signature to ensure that (a) they are specimens showing the mark used in commerce, (b) former or current employees of TMC did not create the specimen, (c) former or current employees of TMC did not digitally alter or "photo shop" the specimen, and (d) the trademark applicant verified that the specimen was being used in commerce.

E. Issue: Possible Professional Misconduct in Connection with Filing of Possibly Phony Specimens in the Office by Mr. Swyers and/or by Non-Practitioners under Mr. Swyers' Supervision (continued)

It is professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, *see* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c), conduct that is prejudicial to the administration of justice, *see* 37 C.F.R. § 10.23(b)(5) and 37 C.F.R.

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§ 11.804(d), and other conduct that adversely reflects on the practitioner's fitness to practice before the Office, *see* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i). Moreover, a practitioner shall provide competent representation to a client, which includes thoroughness and preparation reasonably necessary for the representation. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. A practitioner has significant ethical responsibilities regarding non-practitioner assistance. *See* 37 C.F.R. § 11.503

As mentioned, OED has received information that indicates the specimens filed in the Office in certain trademark applications may be phony (*e.g.*, created and/or digitally altered or modified by Mr. Swyers or a former or current employee of TMC). Accordingly, additional information is requested from Mr. Swyers as follows:

- 1) With respect to trademark applications where phony specimens were or may have been filed in the Office by Mr. Swyers or TMC, what steps, if any, has Mr. Swyers taken between January 28, 2015, and the date of this letter to:
 - a) identify the trademark applications where phony specimens were or may have been filed;
 - b) file submissions in the Office alerting the Office about the phony specimens; and/or
 - c) file submissions in the Office correcting the phony specimens.

- 2) With respect to trademark applications where phony specimens were or may have been filed in the Office by Mr. Swyers or TMC, what steps, if any, has Mr. Swyers taken, prior to the date of this letter, to contact the involved trademark applicants to inform them that (a) phony specimens were or may have been filed in the Office by Mr. Swyers or TMC, (b) there are or may be significant adverse legal consequences to their intellectual property rights resulting from phony specimens being or possibly being filed in the Office by Mr. Swyers or TMC and/or (c) there is or may be a need to take corrective action in order to protect their intellectual property rights in light of phony specimens being or possibly being filed in the Office by Mr. Swyers or TMC? If Mr. Swyers has not so contacted such trademark applicants prior to the date of this letter, why has he not done so? If Mr. Swyers has not so contacted such trademark applicants prior to the date of this letter, does Mr. Swyers intend to contact them and, if so, by what date? Does Mr. Swyers intend to make voluntary restitution to the trademark applicants in such trademark applications? If so, please explain his plans for doing so. If not, why not?

F. Issues: Possible Professional Misconduct in Connection with Possible Aiding in the Unauthorized Practice before the Office in Trademark Matters and Possible Failure to Supervise Non-practitioners

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A practitioner shall not assist another person in the unauthorized practice before the Office in trademark matters. *See* 37 C.F.R. § 10.47 and 37 C.F.R. § 11.505. Moreover, with respect to a non-practitioner assistant employed or retained by or associated with a practitioner:

(a) a practitioner who is a partner, and a practitioner who individually or together with other practitioners possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the practitioner; (b) a practitioner having direct supervisory authority over the non-practitioner assistant shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the practitioner; and (c) a practitioner shall be responsible for conduct of such a person that would be a violation of the USPTO Rules of Professional Conduct if engaged in by a practitioner if: (1) the practitioner orders or, with the knowledge of the specific conduct, ratifies the conduct involved or (2) the practitioner is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action. *See* 37 C.F.R. § 10.77(c) and 37 C.F.R. § 11.503.

Practice before the Office includes, but is not limited to, law-related service that comprehends any matter connected with the presentation to the Office or any of its officers or employees relating to a client's rights, privileges, duties, or responsibilities under the laws or regulations administered by the Office for the grant of a registration of a trademark. *See* 37 C.F.R. § 11.5(b). Such presentations include preparing necessary documents in contemplation of filing the documents with the Office. *See id.* Practice before the Office in trademark matters includes, but is not limited to, consulting with or giving advice to a client in contemplation of filing a trademark application or other document with the Office; preparing and prosecuting an application for trademark registration; and preparing an amendment which may require written argument to establish the registrability of the mark. *See* 37 C.F.R. § 11.5(b)(2). A practitioner, however, may employ or retain non-practitioner assistants under the supervision of the practitioner to assist the practitioner in matters pending or contemplated to be presented before the Office. *See* 37 C.F.R. § 11.5(b). Any individual who is an attorney as defined in 37 C.F.R. § 11.1 may represent others before the Office in trademark matters. *See* 37 C.F.R. § 11.14(a). Individuals who are not attorneys are not recognized to practice before the Office in trademark matters, unless recognized to practice before the Office in trademark matters prior to January 1, 1957. *See* 37 C.F.R. § 11.14(b).

Upon information and belief, including Mr. Swyers' verbal representations to OED, Mr. Swyers has employed, and continues to employ, non-practitioners to prepare trademark applications and trademark application submissions (*e.g.*, responses to Office actions, statements of use, amendments to allege use, and declarations) that are filed in the Office under Mr. Swyers' electronic signature. In light of Mr. Swyers' written admission to OED that others electronically signed his name to trademark documents filed in the Office, *see* his April 15, 2015 Letter p. 7, ¶ 8, Mr. Swyers may have allowed trademark applications and related submissions to be prepared, signed, and filed by non-practitioners.

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Because it appears that Mr. Swyers may have violated ethical duties that he owes to TMC trademark applicants, to the Office, to the public, and to the legal profession, additional information is requested from Mr. Swyers as follows:

- 1) If Mr. Swyers is aware of any non-practitioner (e.g., current or former TMC employee) filing, before January 28, 2015, a trademark application or trademark application submission (e.g., responses to Office actions, statements of use, amendments to allege use, and declarations) in the Office under Mr. Swyers' electronic signature, please (a) state whether Mr. Swyers reviewed the application and submission before it was filed in the Office and (b) explain fully why, if Mr. Swyers reviewed the application and submission, he did not personally sign the application or submission prior to the application or the submission being filed in the Office.
- 2) Please describe fully Mr. Swyers' process(es) or practice(s), if any, between January 1, 2010, and January 28, 2015, for receiving and reviewing Office actions issued by the Office in trademark applications filed in the Office under Mr. Swyers' electronic signature. Please state whether he personally reads and reviews each Office action and, if so, approximately how soon after its issuance by the Office it is read and reviewed by him.
- 3) Between January 1, 2010, and January 28, 2015, did Mr. Swyers personally communicate or personally correspond with each trademark applicant seeking to file a § 1(a) application to ascertain the viability of the trademark applicant's specimen and to verify its use in commerce? If so, please describe his process(es) or practice(s) for doing so. If not, why not?
- 4) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which trademark applications and trademark submissions (e.g., responses to Office actions, statements of use, amendments to allege use, and declarations) were prepared by non-practitioners and then filed in the Office under Mr. Swyers' electronic signature prior to January 28, 2015.
- 5) Regarding trademark clearance search reports prepared by Mr. Swyers or TMC, please describe fully Mr. Swyers' process(es) or practice(s), if any, between January 1, 2010, and January 28, 2015, for communicating with a client after TMC completes a trademark clearance search for the client, including explaining:
 - a. what information was relayed to a client after TMC completed a trademark clearance search for the client;
 - b. the manner in which the trademark clearance search results were relayed to the client (e.g., telephonically, via email, letter, etc.);
 - c. whether non-practitioners relayed information about the trademark clearance search results to the client;

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- d. whether non-practitioners relayed legal advice concerning the trademark clearance search results to the client;
- e. whether Mr. Swyers personally participated in each and every telephonic communication with the client concerning the trademark clearance search results;
- f. whether Mr. Swyers personally reviewed all written correspondence to the client concerning the trademark clearance search results prior to the correspondence being sent to the client; and
- g. whether a refund was ever given to a client for USPTO filing fees as a result of a trademark clearance search that resulted in a likely § 2(d) refusal.

G. Issue: Possible Professional Misconduct in Connection with Possible Lack of Safekeeping Client Property

A practitioner must keep client property safe. *See* 37 C.F.R. § 10.112 and 37 C.F.R. § 11.115. For example, a practitioner shall hold property of clients that is in a practitioner's possession in connection with a representation separate from the practitioner's own property. *See* 37 C.F.R. §§ 10.112(a) and (b) and 37 C.F.R. § 11.115(a). Also, a practitioner shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the practitioner only as fees are earned or expenses incurred. *See* 37 C.F.R. §§ 10.112(a) and (b) and 37 C.F.R. § 11.115(c).

Mr. Swyers has represented thousands of trademark applicants before the Office since January 1, 2010. Mr. Swyers verbally represented to OED that payments received from trademark applicants in advance for payment for trademark legal services to be rendered were not deposited or held in a client trust account or Interest on Lawyer Trust Accounts ("IOLTA") account. Instead, Mr. Swyers verbally explained that funds from trademark applicants were placed in TMC's "operating account." Because the manner in which Mr. Swyers keeps client funds paid in advance seems to be in violation of the provisions of 37 C.F.R. § 10.112 and 37 C.F.R. § 11.115, additional information is requested from Mr. Swyers as follows:

- 1) Please identify all banking accounts used by Mr. Swyers' law practice and/or TMC from January 1, 2010, through the date of this letter. For each such account identified, please state the name of the bank where the account exists(ed), the account number, and the type of account (*e.g.*, checking, savings, IOLTA, other trust, operating, personal, business, *etc.*). For each such account, please state when the account was opened and, if now closed, when it was closed.
- 2) For the period from January 1, 2010, through May 2, 2013, please explain the manner in which Mr. Swyers or TMC received client funds from trademark applicants (*e.g.*, via cash, check, credit card, or any other method) for trademark services to be rendered and where the funds were held or kept prior to the trademark services being rendered. Please

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describe the type(s) of account(s) (*e.g.*, checking, savings, IOLTA, other trust, operating, personal, business, *etc.*) where funds paid in advance of performing legal services were kept. If funds paid in advance of performing legal services were kept in different types of accounts, please describe the basis for holding funds in the different types of accounts.

- 3) For the period from May 3, 2013 until the date of this letter, please explain the manner in which Mr. Swyers or TMC received client funds from trademark applicants (*e.g.*, via cash, check, credit card, or any other method) for trademark services to be rendered and where the funds were held or kept prior to the trademark services being rendered. Please describe the type(s) of account(s) (*e.g.*, checking, savings, IOLTA, other trust, operating, personal, business, *etc.*) where funds paid in advance of performing legal services were kept. If funds paid in advance of performing legal services were kept in different types of accounts, please describe the basis for holding funds in the different types of accounts.
- 4) For the period from January 1, 2010, through May 2, 2013, please state whether any client funds received by Mr. Swyers or TMC for trademark services were not kept or held in a client trust account? If not, why not?
- 5) For the period from January 1, 2010, through May 2, 2013, please state whether any client funds received by Mr. Swyers or TMC for trademark services to be rendered were not kept or held in a client trust account? If not, why not?
- 6) For the period from May 3, 2013, until the date of this letter, please state whether any client funds received by Mr. Swyers or TMC for trademark services were not kept or held in a client trust account? If not, why not?
- 7) For the period from May 3, 2013, until the date of this letter, please state whether any client funds received by Mr. Swyers or TMC for trademark services to be rendered were not kept or held in a client trust account? If not, why not?
- 8) For the period from May 3, 2013, until the date of this letter, please provide copies of the records Mr. Swyers was required to keep pursuant to 37 C.F.R. § 11.115(f)(i) for TMC and/or any other associated law practice(s) (*e.g.*, monthly account statements).
- 9) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers kept and/or disbursed client funds from January 1, 2010, to the date of this letter. Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about why Mr. Swyers believed that doing so complied with the requirements of 37 C.F.R. § 10.112 and 37 C.F.R. § 11.115.

H. Issues: Possible Professional Misconduct in Connection with Possible Lack of Safeguarding of Client Property and Possible False or Misleading Statements

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It is professional misconduct for a practitioner to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, *see* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c), and to engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office, *see* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i). And, as mentioned above, there are rules of professional responsibility pertaining to a practitioner's ethical duties to safeguard client property. *See* 37 C.F.R. § 10.112 and 37 C.F.R. § 11.115.

Mr. Swyers maintains a website for TMC at <http://www.thetrademarkcompany.com>. Under the heading "Completion of Services & Earned Legal Fees," Mr. Swyers' website states, "You acknowledge that payment for services is required contemporaneous to the services being performed. Our services are performed at or about the time they are ordered."

It seems factually impossible for Mr. Swyers to perform trademark legal services at or about the time the services are ordered. It also seems factually impossible for Mr. Swyers to review diligently and finalize the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC at or about the time the trademark legal services are ordered. Therefore, the above quoted language from the website seems to be false or misleading. Moreover, the above quoted language from the website seems to be connected to Mr. Swyers' ethical obligations regarding safeguarding client property under 37 C.F.R. § 10.112 and 37 C.F.R. § 11.115 and may be reasonably viewed as a possible attempt by Mr. Swyers to avoid those ethical obligations. Accordingly, OED seeks information from Mr. Swyers about the seemingly false or misleading representation(s) appearing on the TMC website as follows:

- 1) When did the language, "You acknowledge that payment for services is required contemporaneous to the services being performed. Our services are performed at or about the time they are ordered," first appear on the TMC website? Has the language appeared continuously on the website since that date?
- 2) Does Mr. Swyers perform legal services (or review diligently and finalize the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC) at the time the services are ordered? If so, please describe the services that are rendered at the time the services are ordered and how he performs such services in that time period (or reviews diligently and finalizes the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC).
- 3) Does Mr. Swyers perform legal services (or review diligently and finalize the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC) about the time the services are ordered? If so, please describe the services that are rendered about the time the services are ordered and how he performs such services in that time period (or reviews diligently and finalizes the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC).

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- 4) If Mr. Swyers does not perform legal services (or does not review diligently and finalize the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC) at the time when the services are ordered, please explain why the website for TMC represents that he does so?
- 5) If Mr. Swyers does not perform legal services (or does not review diligently and finalize the trademark applications and trademark application submissions prepared by non-practitioners employed by TMC) about the time when the services are ordered, please explain why the website for TMC represents that he does so?
- 6) Please explain what is meant by “Our services are performed at or about the time they are ordered” as it appeared/appears on the TMC website.
- 7) What is the purpose of the phrase, “Our services are performed at or about the time they are ordered” as it appeared/appears on the TMC website? Is the language intended by Mr. Swyers to affect his ethical obligations under 37 C.F.R. § 10.112(a), 37 C.F.R. § 10.112(b), 37 C.F.R. § 11.115(a), and/or 37 C.F.R. § 11.115(c)?
- 8) In connection with the language “Our services are performed at or about the time they are ordered” as it appeared/appears on the TMC website, is it Mr. Swyers’ position that he earns payment for trademark legal services to be rendered by him at the time the trademark legal services are ordered and not when the services are actually rendered? If so, please explain the factual and legal basis for his position. Please include any ethics opinion(s) obtained by Mr. Swyers prior to the quoted language appearing on the TMC website.
- 9) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about why the language “Our services are performed at or about the time they are ordered” appeared/appears on the TMC website.

I. Issues: Possible Professional Misconduct in Connection with Possible Lack of Safeguarding of Client Property and Possible False or Misleading Statements (continued)

It is professional misconduct for a practitioner to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c).

As mentioned, Mr. Swyers maintains a website, <http://www.thetrademarkcompany.com>, for TMC. Under the heading “Completion of Services & Earned Legal Fees,” the TMC website states, “In the case of our filing package services, fees are earned as of the date of filing. Remaining services are offered complimentary to those services”

It seems false or misleading for Mr. Swyers to claim on the TMC website that “In the case of our filing package services, fees are earned as of the date of filing. Remaining services are offered complimentary to those services” Accordingly, OED seeks information from Mr. Swyers

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about that representation as follows:

- 1) When did the language in the "Completion of Services & Earned Legal Fees," the TMC website that states, "In the case of our filing package services, fees are earned as of the date of filing. Remaining services are offered complimentary to those services" first appear on the TMC website? Has the language appeared continuously on the website since that date?
- 2) Please identify each of Mr. Swyers' "filing package services" as that phrase appears, and has appeared, on the TMC website.
- 3) For each of Mr. Swyers' "filing package services" identified in Mr. Swyers' response above, please state what services are performed after the date of the filing of a trademark application? For each such service performed after the date of the filing of a trademark application, please state the factual and legal basis for asserting that the fee for each such service is earned as of the date of the filing of the trademark application.
- 4) In regards to each of Mr. Swyers' "filing package services" identified in Mr. Swyers' response above, what is meant by the language "In the case of our filing package services, fees are earned as of the date of filing" as it appeared/appears on the TMC website?
- 5) In regards to each of Mr. Swyers' "filing package services" identified in Mr. Swyers' response above, what is meant by the language "Remaining services are offered complimentary to those services" as it appeared/appears on the TMC website?
- 6) What is the purpose of the language, "In the case of our filing package services, fees are earned as of the date of filing. Remaining services are offered complimentary to those services" as it appeared/appears on the TMC website? Is the language intended by Mr. Swyers to affect his ethical obligations under 37 C.F.R. § 10.112(a), 37 C.F.R. § 10.112(b), 37 C.F.R. § 11.115(a), and/or 37 C.F.R. § 11.115(c)?
- 7) Is it Mr. Swyers' position that, in the case of trademark applicants who purchase a package of trademark legal services to be rendered, the fees for all trademark legal services are earned when the trademark application is filed and not when the services are actually rendered? If so, please explain the factual and legal basis for his position. Please include any ethics opinion(s) obtained by Mr. Swyers prior to the quoted language appearing on the TMC website.
- 8) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director why the language "In the case of our filing package services, fees are earned as of the date of filing. Remaining services are offered complimentary to those services" appeared/appears on the TMC website. Please include any ethics opinion(s) obtained by Mr. Swyers prior to the quoted language appearing on the TMC website.

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J. Issue: Possible Professional Misconduct in Connection with Possible Sharing of Legal Fees with Non-Practitioners

A practitioner is prohibited from paying a non-practitioner a portion of the legal fees generated by any particular matter except under narrow situations that do not appear to apply to OED's investigation of Mr. Swyers' conduct. *See* 37 C.F.R. § 10.48 and 37 C.F.R. § 11.504(a).

Upon information and belief, former and current TMC employees are employed primarily in connection with Mr. Swyers' trademark application prosecution practice, which files thousands of trademark applications and trademark application submissions in the Office on an annual basis. Until recently (*i.e.*, sometime after January 28, 2015) no practitioner worked for Mr. Swyers and/or TMC in connection with Mr. Swyers' trademark application prosecution practice. Mr. Swyers verbally represented to OED that former and current TMC employees received bonuses as often as on a monthly basis. The frequency of the potential bonuses and the seemingly primary nature of the services rendered by former and current TMC employees suggest that Mr. Swyers might have and/or is sharing legal fees with non-practitioners. Accordingly, OED requests information from Mr. Swyers about how former and current TMC employees have been and/or are being compensated as follows:

1. For each year of their respective employment with Mr. Swyers and/or TMC, please explain how the 29 former and current TMC employees identified on page 24, ¶ 40, of Mr. Swyers' April 15, 2015 correspondence to OED were and are compensated. Please describe each former and current TMC employee's compensation in terms of salary or wage; bonuses (*i.e.*, compensation apart from salary or wages); and other income. Please include an explanation whether TMC employees participate or participated in profit-sharing and/or retirement plans, and, if so, please describe the plan(s). If the 29 former and current TMC employees are or were eligible for monetary bonuses, please explain TMC's bonus plan, including under what conditions monetary bonuses are or were awarded and how often they are or were awarded.
2. Please state whether the compensation of any of the 29 former and current TMC employees was or is based on the number of trademark applications or trademark application documents on which an employee worked. Did any of the 29 receive compensation based on a trademark application on which they worked being filed in the Office? Did any of the 29 receive compensation based on a response to an Office action on which they worked being filed? Did any 29 receive compensation based on the Office issuing a trademark registration in a trademark application on which they worked?
3. Please state whether the compensation of any of the 29 former or current TMC employees was based on commission, *i.e.*, they were paid based on the amount of trademark legal services sold, applications filed, or registrations awarded by the Office.
4. Mr. Swyers verbally represented to OED that former and current TMC employees signed employment agreements with TMC. Please provide a copy of all such written employment agreement(s) for each of 29 former and current TMC employees.

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5. Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers compensated and compensates the 29 former and current employees of TMC.

K. Issue: Possible Professional Misconduct in Connection with Possible Impermissible Limiting of Liability

It is professional misconduct for a practitioner to make an agreement prospectively limiting the practitioner's liability to a client for malpractice unless the client is independently represented in making the agreement. *See* 37 C.F.R. § 10.78 and 37 C.F.R. 11.108(h)(1).

Upon information and belief, Mr. Swyers personally filed, or caused to be filed through TMC, over fifteen thousand (15,000) trademark applications in the Office between January 1, 2010, and December 31, 2014. Yet, upon information and belief, Mr. Swyers did not have any other practitioner preparing, reviewing, signing, or filing any of the trademark applications or trademark application submissions filed in the Office under his signature during that time. Until recently (*i.e.*, sometime after January 28, 2015) no practitioner worked for Mr. Swyers and/or TMC in connection with his trademark application prosecution practice.

Under the heading, "Limitation of Liability," the TMC website states: "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company." Because it appears that, through such language, Mr. Swyers may be trying to limit his liability for professional services — including limiting liability that may result from his inability to control his work load so that each client matter is handled competently— additional information is requested from Mr. Swyers as follows:

- 1) When did the language "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company" first appear on the TMC website? Has the language appeared continuously on the website since that date?
- 2) Please explain what is meant by "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company."
- 3) What is the purpose of the portion of the TMC website that reads "Moreover, damages incurred, if any, as a result of use of The Trademark Company's products and services shall be limited to the amount paid for those services paid directly to The Trademark Company"?
- 4) Has any trademark applicant ever sought to recover damages from Mr. Swyers or TMC for breach of contract and/or professional negligence? If so, has Mr. Swyers or TMC ever relied on the portion of the TMC website that reads "Moreover, damages incurred,

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It is professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, *see* 37 C.F.R. § 10.23(b)(4) and 37 C.F.R. § 11.804(c), and to engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office, *see* 37 C.F.R. § 10.23(b)(6) and 37 C.F.R. § 11.804(i).

Under the heading, "Completion of Services & Earned Legal Fees," the TMC website states, "For orders made through our web site, we will promptly confirm all details in your order to ensure the accuracy in your trademark or copyright application. **However, if we are unable to do so within one business day The Trademark Company reserves the right to file for your application based upon the information provided in your online order.**" (emphasis added)

The above bolded language from the TMC website suggests that Mr. Swyers may have filed, or caused to be filed, trademark applications without ensuring the accuracy of the details in the trademark application. Doing so would appear to be in violation of Mr. Swyers' certifications under 37 C.F.R. § 11.18 as well as in violation of his ethical obligations. Accordingly, additional information is requested from Mr. Swyers as follows:

- 1) When did the language "However, if we are unable to do so within one business day The Trademark Company reserves the right to file for your application based upon the information provided in your online order" first appear on the TMC website? Has the language appeared continuously on the website since that date?
- 2) What is the purpose of the language "However, if we are unable to do so within one business day The Trademark Company reserves the right to file for your application based upon the information provided in your online order" as it appeared/appears on TMC's website?
- 3) At paragraph 18, page 6 of 30, of Mr. Swyers' March 16, 2015 letter to OED, Mr. Swyers stated that "[a]ll information is confirmed prior to filing of trademark application . . ." However, as noted above, TMC's website states that ". . . if we are unable to [confirm all details] within one business day The Trademark Company reserves the right to file for your application based upon the information provided in your online order." Please reconcile, if possible, the seemingly contradictory language of these two statements.
- 4) Between January 1, 2010, and January 28, 2015, did Mr. Swyers have a policy or practice of filing trademark applications within one business day of receipt of an "online order"? If so, please fully explain such policy or practice. What were the consequences under such policy or practice of Mr. Swyers or TMC not meeting the one-business day deadline? Did Mr. Swyers or TMC have a money back guarantee if the deadline was not met?
- 5) Between January 1, 2010, and January 28, 2015, did Mr. Swyers have a policy or practice of filing trademark applications within one business day of receipt of an "online order"?

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even if TMC was unable to confirm the accuracy of all details provided by the trademark applicant? If so, please fully explain such policy or practice.

- 6) Between January 1, 2010, and January 28, 2015, did Mr. Swyers or TMC file any trademark applications in the Office under Mr. Swyers' electronic signature within one business day of TMC's receipt of the trademark applicant's "online order"? If so, between January 1, 2010, and January 28, 2015, how many such trademark applications were filed within one business day of receipt of an "online order"? If Mr. Swyers does not know the number of such applications, please (a) affirmatively state that he does not know the number of such applications, (b) explain why he does not know the number of applications (*e.g.*, it was a routine practice and there are too many of such applications), and (c) provide a good faith estimate of the number of such applications (*e.g.*, Is it over 1,000? Is it over 10,000? Is it over 15,000?).
- 7) If, between January 1, 2010, and January 28, 2015, Mr. Swyers or TMC filed trademark applications in the Office under Mr. Swyers' electronic signature within one business day of TMC's receipt of the trademark applicant's "online order," please state the trademark application serial number for each such trademark application. If Mr. Swyers is unable to state each such trademark application serial number, please provide a sampling of such trademark applications that were filed in 2010, 2011, 2012, 2013, and 2014.
- 8) Between January 1, 2010, and January 28, 2015, did Mr. Swyers or TMC file trademark applications in the Office under Mr. Swyers' electronic signature without first ensuring the accuracy of the information in the trademark application? If so, how many such trademark applications were filed during that time period? If Mr. Swyers does not know the number of such trademark applications, please (a) affirmatively state that he does not know the number of such applications, (b) explain why he does not know the number of such applications (*e.g.*, it was a routine practice and there are too many of such applications to count), and (c) provide a good faith estimate of the number of such applications (*e.g.*, Is it over 1,000? Is it over 10,000? Is it over 15,000?).
- 9) If, between January 1, 2010, and January 28, 2015, Mr. Swyers or TMC filed trademark applications in the Office under Mr. Swyers' electronic signature without first ensuring the accuracy of the information in the trademark application, please state the trademark application serial number for each such trademark application. If Mr. Swyers is unable to state each such trademark application serial number please provide a sampling of such trademark applications that were filed in 2010, 2011, 2012, 2013, and 2014.
- 10) If between January 1, 2010, and January 28, 2015, trademark applications were filed in the Office under Mr. Swyers' electronic signature without ensuring the accuracy of the information in the trademark applications, did Mr. Swyers personally consult with the trademark applicant in each such trademark application about the means by which the applicant's objectives were to be accomplished?

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- 11) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about why the language "However, if we are unable to do so within one business day The Trademark Company reserves the right to file for your application based upon the information provided in your online order" appeared/appears on the TMC website?
- 12) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about Mr. Swyers' filing of trademark applications without first confirming the accuracy of all details provided by the trademark applicant.
- 13) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director that Mr. Swyers' filing of trademark applications without first confirming the accuracy of all details provided by the trademark applicant does not violate his certifications to the Office as set forth in 37 C.F.R. § 11.18(b).

M. Issues: Possible Professional Misconduct in Connection with Possible False Certifications to the Office and Possible Knowingly Filing Papers in the Office without Ensuring the Accuracy of the Papers (continued)

Table Four

Application Serial Number	Mark
86505768	SA SUSPENDED ANIMATION
86489055	NATURAL DOG COMPANY
86240631	LUXE
86240605	HEAVY PLUSH
86211425	LILAC
86211221	SILVER
86211208	SUPER GOLD
86211212	MOTHER OF PEARL
86182666	FLORIDA CENTER FOR RECOVERY INC.
86382721	EMPOWERED BIRTH METHOD

Mr. Swyers' electronic signature is signed to more than 400 trademark applications filed in the Office seeking registration of a mark based on the mark having become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce (*i.e.*, a § 2(f) application). In each such § 2(f) application, Mr. Swyers' electronic signature is signed to a statement claiming that the mark seeking to be registered has "become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement." Additionally, in each such § 2(f) application, Mr. Swyers' electronic signature is signed to the declaration accompanying the § 2(f) application. Table Four above, is a sampling of § 2(f) applications filed in the Office under Mr. Swyers' electronic signature.

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OED has received information that Mr. Swyers did not personally sign all declarations bearing his electronic signature that were filed in the Office in trademark application submissions, including declarations. *See, e.g.*, Part B., above. Accordingly, OED seeks information from Mr. Swyers about each of the applications listed in Table Four as follows:

- 1) Did Mr. Swyers personally electronically sign the § 2(f) application and/or declaration bearing his name? If not, please state the name, address, and telephone number of the person who electronically signed Mr. Swyers' name to the § 2(f) application bearing his name. If Mr. Swyers did not personally sign electronically the § 2(f) application bearing his name, please explain fully why he did not do so.
- 2) If Mr. Swyers personally electronically signed the § 2(f) application and/or declaration bearing his name, does Mr. Swyers claim that he personally acquired the requisite knowledge under 37 C.F.R. § 2.41 to have been able to sign truthfully the statement claiming that the mark seeking to be registered has "become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement?" If so, please state and provide the evidence (*e.g.*, documentation received by Mr. Swyers from the trademark applicant, including any declarations from the applicant) that allowed Mr. Swyers to sign the statement truthfully.
- 14) If Mr. Swyers did not personally electronically sign the § 2(f) application and/or the declaration bearing his name, does Mr. Swyers claim that the person who signed his name personally acquired the requisite knowledge under 37 C.F.R. § 2.41 to have been able to sign truthfully the statement claiming that the mark seeking to be registered has "become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce that the U.S. Congress may lawfully regulate for at least the five years immediately before the date of this statement?" If so, please state and provide the evidence (*e.g.*, documentation received by Mr. Swyers from the trademark applicant, including any declarations from the applicant) that allowed the person to sign the statement truthfully.
- 15) If Mr. Swyers personally electronically signed the declaration accompanying the § 2(f) application, does Mr. Swyers claim he personally acquired the requisite knowledge under 37 C.F.R. § 2.41 to have been able to sign the declaration truthfully? If so, please state and provide the evidence (*e.g.*, documentation received by Mr. Swyers from the trademark applicant) that allowed Mr. Swyers to sign the declaration truthfully.
- 16) If Mr. Swyers did not personally electronically sign the declaration accompanying the § 2(f) application, does Mr. Swyers claim that the person who signed his name to the declaration personally acquired the requisite knowledge under 37 C.F.R. § 2.41 to have been able to sign the declaration truthfully? If so, please state and provide the evidence

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(e.g., documentation received by Mr. Swyers from the trademark applicant) that allowed the person to sign the declaration truthfully.

17) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers signed and filed the § 2(f) applications.

18) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about the manner in which Mr. Swyers signed and filed the declarations accompanying the § 2(f) applications.

N. Issue: Possible Professional Misconduct in Connection with Failing to Take Corrective Action on Behalf of a Trademark Applicant after Learning that a Phony Specimen was Filed in the Office and after Representing to OED that Corrective Action was Being Taken

It is professional misconduct for a practitioner to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* 37 C.F.R. § 11.804(c). Also, a practitioner shall not engage in conduct that it prejudicial to the administration of justice. *See* 37 C.F.R. § 11.804(d). Also, a practitioner shall not knowingly fail to correct a false statement of material fact previously made to the tribunal by the practitioner. *See* 37 C.F.R. § 11.303. Also, in the course of representing a client, a practitioner shall not knowingly make a false statement of material fact or law to a third person. *See* 37 C.F.R. § 11.401(a). Also, a practitioner shall provide competent representation to a client. *See* 37 C.F.R. § 11.101. A practitioner's work load must be controlled so that each client matter may be handled competently. *See* 37 C.F.R. § 10.77 and 37 C.F.R. § 11.101. Also a practitioner shall keep the client informed about the status of the client's matter. *See* 37 C.F.R. § 11.104(a)(3). Finally, a practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office. *See* 37 C.F.R. § 11.804(i).

Mr. Swyers admitted to OED that a phony specimen was filed in U.S. Trademark Application No. 86287285 by TMC. *See* Mr. Swyers' October 29, 2014 Letter to OED at p. 3, ¶ 4. Mr. Swyers further informed OED that "an amendment is being made to reflect a correction." *See id.*

Notwithstanding Mr. Swyers' October 29, 2014 statement to OED that he was taking action to correct the filing of the phony specimen, it appears that Mr. Swyers did not take corrective action in November or December of 2014. On December 30, 2014, the Office issued a certificate of registration based on the phony specimen. Mr. Swyers, as the attorney of record in U.S. Trademark Application No. 86287285, knew or reasonably should have known that the Office issued the certificate of registration based on the phony specimen. Yet, even after presumably learning about the issuance of the trademark registration based on a phony specimen, it seems Mr. Swyers still did not take corrective action in the trademark application. As of the date of this letter, no amendment has been made to reflect a correction. Accordingly, OED has questions about Mr. Swyers' legal representation of the trademark applicant in U.S. Trademark Application No. 86287285 as follows:

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- 1) Please state the name, address, and telephone number of the person(s) who prepared the specimen that was filed in U.S. Trademark Application No. 86287285 as described in Mr. Swyers' October 29, 2014 Letter to OED at page 3, ¶ 4.
- 2) Please state the name, address, and telephone number of the TMC employee who was responsible for making the amendment to reflect a correction in U.S. Trademark Application No. 86287285 as described in Mr. Swyers' October 29, 2014 Letter to OED at page 3, ¶ 4.
- 3) Please explain why no submission seeking to correct the phony specimen was filed in U.S. Trademark Application No. 86287285 between October 29, 2014, and December 30, 2014.
- 4) Please explain why no submission seeking to correct the phony specimen was filed in U.S. Trademark Application No. 86287285 after December 30, 2014, and prior to the date of this letter.
- 5) Please state whether, as of the date of this letter, Mr. Swyers and/or TMC informed the trademark applicant in U.S. Trademark Application No. 86287285 that the USPTO issued a registration certificate dated December 30, 2014, in U.S. Trademark Application No. 86287285. If so, please state the date on which Mr. Swyers and/or TMC informed the trademark applicant and provide copies of the correspondence (e.g., email) so informing the trademark applicant.
- 6) Please state whether, as of the date of this letter, Mr. Swyers and/or TMC informed the trademark applicant in U.S. Trademark Application No. 86287285 that a phony specimen was filed in U.S. Trademark Application No. 86287285. If so, please state when the applicant was notified and provide a copy of documents memorializing the notification (e.g., correspondence to the applicant). If the trademark applicant was not notified as of the date of this letter, why not?
- 7) Please state whether, as of the date of this letter, Mr. Swyers and/or TMC informed the trademark applicant in U.S. Trademark Application No. 86287285 of the potential significant adverse legal consequences to the applicant's intellectual property rights in the trademark registration issued in U.S. Trademark Application No. 86287285 because a phony specimen was filed in U.S. Trademark Application No. 86287285. If so, please state when the applicant was advised and provide a copy of documents memorializing the advice (e.g., correspondence to the applicant). If the trademark applicant was not so advised by the date of this letter, why not?
- 8) Please provide a copy of all correspondence with the trademark applicant in U.S. Trademark Application No. 86287285.

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- 9) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about Mr. Swyers' failure to file a submission seeking to correct the phony specimen in U.S. Trademark Application No. 86287285 after informing OED that an amendment was being made to reflect a correction.
- 10) If, as of the date of this letter, Mr. Swyers or TMC did not advise the trademark applicant in U.S. Trademark Application No. 86287285 of the potential significant adverse legal consequences to his intellectual property rights to the trademark registration issued in U.S. Trademark Application No. 86287285 because a phony specimen was filed in U.S. Trademark Application No. 86287285, please provide all information that Mr. Swyers believes will reasonably inform the OED Director why he did not so communicate with the trademark applicant.

O. Issue: Possible Professional Misconduct in Connection with Mr. Swyers Possibly Interfering with OED Investigation

A practitioner shall not fail to cooperate with the Office of Enrollment and Discipline in an investigation of any matter before it. *See* 37 C.F.R. § 11.801(b). Also, a practitioner shall not engage in conduct that is prejudicial to the administration of justice. *See* 37 C.F.R. § 11.804(d). Also, a practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office. *See* 37 C.F.R. § 11.804(i).

Upon information and belief, Mr. Swyers told at least one person not to speak with OED about OED's investigation in OED File No. G2423. Accordingly, OED seeks information from Mr. Swyers about his possible interference with OED's investigation of his conduct, as follows:

- 1) From August 29, 2014, to the date of this letter, has Mr. Swyers ever instructed or requested any former or current TMC employee not to speak to OED? If so, (a) state the name, address and telephone number of each such employee, (b) state the date of the instructing or requesting, and (c) describe fully such instructing or requesting.
- 2) From August 29, 2014, to the date of this letter, has Mr. Swyers ever instructed or requested any former or current TMC employee not to provide information to OED? If so, (a) state the name, address and telephone number of each such employee, (b) state the date of the instructing or requesting, and (c) describe fully such instructing or requesting.
- 3) From August 29, 2014, to the date of this letter, has Mr. Swyers ever instructed or requested any trademark applicant not to speak to OED? If so, (a) state the name, address and telephone number of each such applicant, (b) state the date of the instructing or requesting, and (c) describe fully such instructing or requesting.
- 4) From August 29, 2014, to the date of this letter, has Mr. Swyers ever instructed or requested any trademark applicant not to provide information to OED? If so, (a) state the name, address and telephone number of each such applicant, (b) state the date of the instructing or requesting, and (c) describe fully such instructing or requesting.

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- 5) Please provide all information that Mr. Swyers believes will reasonably inform the OED Director about Mr. Swyers' alleged instructing or requesting any person not to speak to OED and/or not to provide information to OED.

**Provisions of USPTO Code of Professional Responsibility and
USPTO Rules of Professional Conduct Under Consideration**

Regardless of whether a specific provision was cited under a given heading, the provisions of the USPTO Code of Responsibility that are under consideration are:

37 C.F.R. § 10.23(a)
37 C.F.R. § 10.23(b)(4)
37 C.F.R. § 10.23(b)(5)
37 C.F.R. § 10.23(b)(6)
37 C.F.R. § 10.23(c)(2)
37 C.F.R. § 10.23(c)(15)
37 C.F.R. § 10.23 (d)
37 C.F.R. § 10.31
37 C.F.R. § 10.47
37 C.F.R. § 10.48
37 C.F.R. § 10.49
37 C.F.R. § 10.62
37 C.F.R. § 10.68(c)
37 C.F.R. § 10.77
37 C.F.R. § 10.78
37 C.F.R. §10.84(a)
37 C.F.R. § 10.85(a)(5)
37 C.F.R. § 10.89(c)(6)
37 C.F.R. §§ 10.112(a) and (b)

Regardless of whether a specific provision was cited under a giving heading, the provisions of the USPTO Rules of Professional Conduct under consideration are:

37 C.F.R. § 11.101
37 C.F.R. § 11.102(d)
37 C.F.R. § 11.103
37 C.F.R. § 11.104(a)
37 C.F.R. 11.108(h)(1)
37 C.F.R. §§ 11.115(a) and (c)
37 C.F.R. § 11.201
37 C.F.R. § 11.301
37 C.F.R. § 11.303
37 C.F.R. § 11.401(a)
37 C.F.R. § 11.503

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37 C.F.R. § 11.504(a)
37 C.F.R. § 11.505
37 C.F.R. § 11.701
37 C.F.R. §§ 11.801(a) and (b)
37 C.F.R. § 11.804(c)
37 C.F.R. § 11.804(d)
37 C.F.R. § 11.804(i)

Instructions

In this letter, “practitioner” means an individual authorized under 5 U.S.C. 500(b) or otherwise as provided by 37 C.F.R. § 11.14(a), (b), and (c), to practice before the Office in trademark matters. A “non-practitioner” is a person who is not a practitioner.

In this letter, the meaning of “sign electronically” means to personally enter the combination of letters, numbers, spaces and/or punctuation marks that Mr. Swyers adopted as a signature (e.g., “Matthew H. Swyers” or “Matthew H. Swyers, Esq.”) placed between two forward slash (“/”) symbols in the signature block on the electronic submission.

In this letter, the meaning of “sign” includes signing electronically.

In this letter, the meaning of “file” includes filing electronically.

Please respond to each question and request for information. When responding, please identify the specific part of the request and accompanying numbered paragraph to which Mr. Swyers is responding (for example, Part A. Request No. 1). If a WORD version of this Fourth RFI would prove helpful in drafting a proper response, one will be provided upon request.

If information or documents are withheld on the basis of privilege, please (a) provide a copy of the document with only the purported privileged components of the document redacted, (b) state the privilege(s) being asserted, and (c) state the factual and legal basis for the privilege(s). If the entire document is withheld on the basis of privilege, please provide a privilege log that states the document type, the date of the document, the author of the document, the privilege(s) being asserted, and the factual and legal basis for the assertion of the privilege(s).

Please note that the USPTO Rules of Professional Conduct impose an obligation to cooperate with OED in an investigation of any matter before it, and proscribe knowingly failing to respond to a request from OED. See 37 C.F.R. § 11.801(b). In addition, if Mr. Swyers does not respond to this request for information, or parts thereof, the Committee on Discipline may draw an adverse inference in making determinations under 37 C.F.R. § 11.23(b). See *Baxter v. Palmigiano*, 425 U.S. 308 (1976).

We will attempt to verify the statements in the response just as we do with the information provided to us. For this reason, and because a practitioner could be subject to discipline for making a materially false statement or deliberately failing to disclose a material fact in

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connection with a disciplinary matter (*see* 37 C.F.R. §§ 11.804(c) and 11.804(d)), Mr. Swyers should accurately set forth his factual statements.

Mr. Swyers' response to this Fourth Request for Information should be received by OED within thirty (30) days of the date of this letter, or **June 18, 2015**, whichever is later. If Mr. Swyers needs additional time to respond and he is amenable to entering into a tolling agreement, please contact the undersigned to arrange for the signing of a tolling agreement and an extension of time.

Please address Mr. Swyers' response to Mail Stop OED, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. Please refer to OED file number G2423 in the heading of the response.

After receiving and reviewing the complete responses to requests for information sent to material witnesses (*i.e.*, certain current employees of TMC) as well as Mr. Swyers' complete responses to this request for information, the OED Director may reschedule the previously postponed § 11.26 settlement conference. Such settlement conference, however, may be preceded by a request for Mr. Swyers to participate in a second non-§ 11.26 conference.

If you or Mr. Swyers have any questions, please telephone the undersigned at 571-272-4097.

Sincerely,



Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline

EXHIBIT E



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF ENROLLMENT AND DISCIPLINE

Mr. Steven E. Lipman
Maier & Maier, PLLC
345 South Patrick Street
Alexandria, Virginia 22314

CERTIFIED MAIL _____
RETURN RECEIPT REQUESTED

Mr. Steven E. Lipman
142 Warren Avenue #2
Boston, Massachusetts 02116

CERTIFIED MAIL _____
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: File No. G2423, Matthew H. Swyers
FIFTH REQUEST FOR INFORMATION AND EVIDENCE UNDER 37 CFR § 11.22(f)

Dear Mr. Lipman:

In light of information gathered to date (including verbal and written information received from your client, Matthew H. Swyers) the Office of Enrollment and Discipline ("OED") has additional questions regarding the manner in which the over fifteen thousand (15,000) trademark applications and related trademark application submissions were filed in the United States Patent and Trademark Office ("USPTO" or "Office") by Mr. Swyers personally and through his law firm, The Trademark Company, PLLC ("TMC"), since January 1, 2010.

The OED Director will make no determination for disposition of the matters raised in this letter until Mr. Swyers has been afforded an opportunity to fully state his position. This letter is also an opportunity under 5 U.S.C. § 558(c), if appropriate, for Mr. Swyers to demonstrate that he has been in, or has come into, compliance with the USPTO Rules of Professional Conduct.

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Requests for Information¹

Request No. 1

Attached to this letter as Exhibit A are examples of invoices sent by The Trademark Company to various trademark applicants.

For each of the trademark applications set forth in Table One, below, please provide copies of all similar invoices sent by The Trademark Company to the applicant (or applicant's representative).

Table One

Serial No.	Mark
86325801	LIVE DEEP
86082632	CAMO COMEDY
86287285	SOUL INSIDE
86199944	FRESH LOCAL PRODUCT
86091374	SWANK LIFE
86100026	GIRLS LOVE LEGGINGS
86174461	(DESIGN MARK)
86097637	DO YOU STAY TRUE LIFESTYLES
86333454	4061
86332208	MADE IN AMREEKA
86310850	TRILOGYZ
86303859	AC&T
86303783	ALH
86235103	INCHIC
86226090	VAN DER HAGEN
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING

¹ Please see "Instructions" at page 6, below.

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86219272	HEALTH CIRCULATOR
86217289	REDROCK ROASTER
86199944	FRESH LOCAL PRODUCT
86180380	LIFE CYCLE
86176924	WHAT'S IN YOUR GENES
86176944	WHAT'S IN MY GENES
86171919	TREEFREE
86287849	ICUSTOMONLINE
86286040	MY BLOCK MY HOOD MY CITY
86273334	STEM ENHANCER BIOXCELL
86240315	OSPREY POWER PLATFORM
86287301	(DESIGN MARK)
86505768	SA SUSPENDED ANIMATION
86489055	NATURAL DOG COMPANY
86240631	LUXE
86240605	HEAVY PLUSH
86211425	LILAC
86211221	SILVER
86211208	SUPER GOLD
86211212	MOTHER OF PEARL
86182666	FLORIDA CENTER FOR RECOVERY INC.
86382721	EMPOWERED BIRTH METHOD

Request No. 2

Attached to this letter as Exhibit B is a February 13, 2013, 2:55 PM email from Paul Szulak to Kelvin D. Kinney. The email identifies "Specimen of Use.JPG" as an attachment. Mr. Szulak's email to Mr. Kinney states, in part, "Please also provide a specimen of use. This needs to be a hangtag displaying your trademark attached to the item of clothing. Attached above is an example for your reference."

Please provide a copy of the "Specimen of Use.JPG" attachment sent to Mr. Kinney by Mr. Szulak as referenced in Mr. Szulak's February 13, 2013, 2:55 PM email.

Request No. 3

Attached to this letter as Exhibit C is a February 6, 2014, 11:28 AM email from Paul Szulak to Kelvin D. Kinney. The email identifies "Specimen of UseOA.JPG" as one of two attachments. Mr. Szulak's email to Mr. Kinney states, in part, "Acceptable specimens for clothing is [sic] your trademark displayed on the interior tag or on a hangtag attached to one of your items of clothing

Re: Matthew H. Swyers
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displaying your trademark. Attached above is an example of an acceptable specimen of use.” The email references “Specimen of Use OA.JPG” as an attachment.

Please provide a copy of the “Specimen of Use OA.JPG” as referenced in Mr. Szulak’s February 6, 2014, 11:28 AM email to Mr. Kinney.

Request No. 4

Attached to this letter as Exhibit D is a February 19, 2014, 12:05 PM email from Kelvin D. Kinney to Paul Szulak. There is no message in the email, but it references two attachments: “photo.JPG; ATT00001.txt.”

Please provide a copy of (a) the attachment referenced as “photo.JPG” in Mr. McKinney’s February 19, 2014, 12:05 PM email to Mr. Szulak, and (b) the attachment referenced as ATT00001.txt.” in Mr. Kinney’s February 19, 2014, 12:05 PM email to Mr. Szulak.

Request No. 5

Attached to this letter as Exhibit E is an email from Danny Yuangbhanich to The Trademark Company dated July 31, 2013, 12:33 PM. The email references attachments: “ZOMBIEWARE.docx; Zombieware.JPG.” The email states, in part, “Hi, I have enclosed a photo of my mark in use and log re ‘Zombieware.’”

Please provide a copy of the attachments: “ZOMBIEWARE.docx” and “Zombieware.JPG” as referenced in Danny Yuangbhanich’s July 31, 2013, 12:33 PM to The Trademark Company.

Request No. 6

The Trademark Company corresponds with trademark applicants to obtain images of the applicant’s mark as used in commerce. *See* Exhibits B, C, D, and E.

Table Two

Serial No.	Mark (Specimen(s))
85861327	SHE’S A 10! (APRIL 16, 2014 SPECIMEN)
85840668	SEW-IN SPRAY HAIR CARE PRODUCTS (FEBRUARY 5, 2013 SPECIMEN)
86325801	LIVE DEEP (JULY 1, 2014 SPECIMEN)
86082632	CAMO COMEDY (OCTOBER 4, 2013 SPECIMEN)
86287285	SOUL INSIDE (MAY 21, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMEN)

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86091374	SWANK LIFE (OCTOBER 15, 2013 SPECIMEN)
86100026	GIRLS LOVE LEGGINGS (OCTOBER 24, 2013 SPECIMEN)
86174461	(DESIGN MARK) (MAY 16, 2014 SPECIMEN)
86097637	DO YOU STAY TRUE LIFESTYLES (MAY 13, 2014 SPECIMEN)
86333454	4061 (JULY 10, 2014 SPECIMEN)
86332208	MADE IN AMREEKA (JULY 9, 2014 SPECIMEN)
86310850	TRILOGYZ (JUNE 16, 2014 SPECIMEN)
86303859	AC&T (JUNE 9, 2014 SPECIMEN)
86303783	ALH (June 9, 2014 SPECIMEN)
86235103	INCHIC (MAY 28, 2014 SPECIMEN)
86226090	VAN DER HAGEN (MARCH 19, 2014 THIRD AND FOURTH SPECIMENS)
86223316	TEAM NETWORK SOLUTIONS TRAINING EVENTS MARKETING (MARCH 17, 2014 SPECIMEN)
86219272	HEALTH CIRCULATOR (MARCH 12, 2014 SPECIMEN, JULY 10, 2014 SPECIMEN, SEPTEMBER 5, 2014 SPECIMEN)
86217289	REDROCK ROASTER (MARCH 11, 2014 SPECIMEN)
86199944	FRESH LOCAL PRODUCT (FEBRUARY 21, 2014 SPECIMENS)
86180380	LIFE CYCLE (JULY 9, 2014 SECOND AND THIRD SPECIMENS)
86176924	WHAT'S IN YOUR GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86176944	WHAT'S IN MY GENES (JANUARY 28, 2014 FIRST SPECIMEN)
86171919	TREEFREE (MAY 15, 2014 SPECIMEN, JUNE 27, 2014 SPECIMEN, AND AUGUST 13, 2014 SPECIMEN)
86287849	ICUSTOMONLINE (May 21, 2014 SPECIMEN)
86286040	MY BLOCK MY HOOD MY CITY (MAY 20, 2014 SPECIMEN)
86273334	STEM ENHANCER BIOXCELL (MAY 6, 2014 SPECIMEN)
86240315	OSPREY POWER PLATFORM (APRIL 2, 2014 SPECIMEN)

For each trademark application referenced in Table Two, above, please provide copies of all correspondence:

- (a) from The Trademark Company requesting specimens from the applicant and all attachments to such correspondence (e.g., examples of acceptable specimens); and
- (b) from the applicant to The Trademark Company responding to requests for specimens from The Trademark Company, including the correspondence transmitting specimens and all attachments to such correspondence (e.g., copies of the image of the applicant's mark as purportedly used in commerce).

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**Provisions of USPTO Code of Professional Responsibility and
USPTO Rules of Professional Conduct Under Consideration**

The following provisions the USPTO Code of Responsibility that remain under consideration in OED's investigation are:

37 C.F.R. § 10.23(a)
37 C.F.R. § 10.23(b)(4)
37 C.F.R. § 10.23(b)(5)
37 C.F.R. § 10.23(b)(6)
37 C.F.R. § 10.23(c)(2)
37 C.F.R. § 10.23(c)(15)
37 C.F.R. § 10.23 (d)
37 C.F.R. § 10.31
37 C.F.R. § 10.47
37 C.F.R. § 10.48
37 C.F.R. § 10.49
37 C.F.R. § 10.62
37 C.F.R. § 10.68(c)
37 C.F.R. § 10.77
37 C.F.R. § 10.78
37 C.F.R. §10.84(a)
37 C.F.R. § 10.85(a)(5)
37 C.F.R. § 10.89(c)(6)
37 C.F.R. §§ 10.112(a) and (b)

The following provisions the USPTO Rules of Professional Conduct that remain under consideration in OED's investigation are:

37 C.F.R. § 11.101
37 C.F.R. § 11.102(d)
37 C.F.R. § 11.103
37 C.F.R. § 11.104(a)
37 C.F.R. 11.108(h)(1)
37 C.F.R. §§ 11.115(a) and (c)
37 C.F.R. § 11.201
37 C.F.R. § 11.301
37 C.F.R. § 11.303
37 C.F.R. § 11.401(a)
37 C.F.R. § 11.503
37 C.F.R. § 11.504(a)
37 C.F.R. § 11.505
37 C.F.R. § 11.701
37 C.F.R. §§ 11.801(a) and (b)

Re: Matthew H. Swyers
OED File No. G2423

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37 C.F.R. § 11.804(c)
37 C.F.R. § 11.804(d)
37 C.F.R. § 11.804(i)

Instructions

Whereas OED's prior request for information asked for all correspondence relating to certain trademark applications, this request seeks the production of specific documents. Therefore, Mr. Swyers should not merely incorporate by reference his prior replies. Instead, OED requests that he respond to each of the requests set forth in this letter.

If documents are withheld on the basis of privilege, please (a) provide a copy of the document with only the purported privileged components of the document redacted, (b) state the privilege(s) being asserted, and (c) state the factual and legal basis for the privilege(s). If the entire document is withheld on the basis of privilege, please provide a privilege log that states the document type, the date of the document, the author of the document, the privilege(s) being asserted, and the factual and legal basis for the assertion of the privilege(s).

Please note that the USPTO Rules of Professional Conduct impose an obligation to cooperate with OED in an investigation of any matter before it, and proscribe knowingly failing to respond to a request from OED. *See* 37 C.F.R. § 11.801(b). In addition, if Mr. Swyers does not respond to this request for information, or parts thereof, the Committee on Discipline may draw an adverse inference in making determinations under 37 C.F.R. § 11.23(b). *See Baxter v. Palmigiano*, 425 U.S. 308 (1976).

We will attempt to verify the statements in the response just as we do with the information provided to us. For this reason, and because a practitioner could be subject to discipline for making a materially false statement or deliberately failing to disclose a material fact in connection with a disciplinary matter (*see* 37 C.F.R. §§ 11.804(c) and 11.804(d)), Mr. Swyers should accurately set forth his factual statements.

Mr. Swyers' response to this Fourth Request for Information should be received by OED within twenty-one (21) days of the date of this letter, or **July 20, 2015**, whichever is later. If Mr. Swyers needs additional time to respond and he is amenable to entering into a tolling agreement, please contact the undersigned to arrange for the signing of a tolling agreement and an extension of time.

Please address Mr. Swyers' response to Mail Stop OED, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450. Please refer to OED file number G2423 in the heading of the response.

After receiving and reviewing the complete responses to requests for information sent to material witnesses (i.e., certain current employees of TMC) as well as Mr. Swyers' complete responses to this request for information, the OED Director may reschedule the previously postponed

Re: Matthew H. Swyers
OED File No. G2423

Page 8

37 C.F.R. § 11.26 settlement conference. Such settlement conference, however, may be preceded by a request for Mr. Swyers to participate in a second non-37 C.F.R. § 11.26 conference.

If you or Mr. Swyers have any questions, please telephone the undersigned at 571-272-4097.

Sincerely,

Gerard Taylor
Staff Attorney
Office of Enrollment and Discipline

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Matthew H. Swyers

(b) County of Residence of First Listed Plaintiff Wake County
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Danny M. Howell, Michael T. Marr, Sarah A. Bucovetsky
 Sands Anderson PC, 1497 Chain Bridge Road, Suite 202, McLean, VA
 22101, Telephone 703-893-3600

DEFENDANTS
 UNITED STATES PATENT AND TRADEMARK OFFICE, et al.

County of Residence of First Listed Defendant Alexandria
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES		
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes	
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1331, 28 U.S.C. § 1391(b)(2)

Brief description of cause:
violation of Plaintiff's Constitutional rights to due process and privacy

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 550,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 01/06/2016 SIGNATURE OF ATTORNEY OF RECORD Danny M. Howell

FOR OFFICE USE ONLY: RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

RECEIVED



RICHMOND • MCLEAN • FREDERICKSBURG
CHRISTIANSBURG • RALEIGH
SANDS ANDERSON PC

WWW.SANDSANDERSON.COM

Karen M. Bortolin
Professional Assistant

E-mail: KBortolin@SandsAnderson.com

2016 JAN -6 P 3:24
1497 Chain Bridge Road, Suite 202
McLean, Virginia 22101
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA
Main: (703) 893-3600
Fax: (703) 893-8484

January 6, 2016

VIA COURIER

Mr. Fernando Galindo, Clerk
United States District Court
Eastern District of Virginia
Albert V. Bryan U.S. Courthouse
401 Courthouse Square
Alexandria, VA 22314

Re: Matthew H. Swyers v. United States Patent and Trademark Office, et al.
Our File Number: 012108/090726

Dear Mr. Galindo:

On behalf of the Plaintiff Matthew H. Swyers, I have enclosed for filing and placement with other papers in the above-styled matter, a Complaint with its exhibits, Civil Cover Sheet, and six (6) Summonses. Also enclosed please find our check in the amount of \$400.00 in payment of the filing fees associated with same. Please stamp the "Receipt" copies of the enclosed documents and return them to me in the envelope provided via the Courier.

Please prepare the Summonses for service and contact me when they are ready for service along with their copy of the Complaint. I will have a private process server pick them up.

Should you have any questions, please feel free to contact me. Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Karen M. Bortolin".

Karen M. Bortolin

Enclosures

Court Name: United States District Court
Division: 1
Receipt Number: 14603056261
Cashier ID: rbroaden
Transaction Date: 01/06/2016
Payer Name: SANDS ANDERSON

CIVIL FILING FEE
For: SANDS ANDERSON
Amount: \$400.00

CHECK
Remitter: SANDS ANDERSON
Check/Money Order Num: 2169
Amt Tendered: \$400.00

Total Due: \$400.00
Total Tendered: \$400.00
Change Amt: \$0.00

FILING FEE
116CV3 FEE
115