

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CASE NO. 07-21221 CIV ALTONAGA/BROWN

RENEE BLASZKOWSKI, *et al.*,  
individually and on behalf of others  
similarly situated,

Plaintiffs/Class Representatives,

vs.

MARS INC., *et al.*,

Defendants.

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**PLAINTIFFS' THIRD REQUEST FOR PRODUCTION  
OF DOCUMENTS AND THINGS TO THE IAM'S CO.**

Pursuant to Federal Rule of Civil Procedure 34, the Plaintiffs hereby request the Defendant, The Iams Co. ("Iams"), to produce and make available for inspection and duplication, in response to each numbered paragraph, all documents specified herein which are in your possession, custody, or control or in the possession, custody or control of your agents or attorneys. You are requested to make such production within 30 days, or such other time as agreed, at the offices of Maltzman Foreman, PA, 2 S. Biscayne Blvd., Miami, Florida 33131.

## INSTRUCTIONS

1. “Iams”, “Defendant”, “you”, and “your” refer to The Iams Co., any subsidiary, parent, or predecessor or other names under which The Iams Co. has conducted business, and its employees, officers, agents, and all other persons acting, understood to act, or purporting to act on its behalf under its direction or control.

2. The term “document” means any written or graphic matter or other means of preserving thought or expression and all tangible things from which information can be processed or transcribed, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copy or otherwise, including, but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype, telefax, bulletins, meetings or other communications, interoffice and intra-office telephone calls, diaries, chronological data, minutes, books, reports, studies, summaries, pamphlets, bulletins, printed matter, charts, ledgers, invoices, worksheets, receipts, returns, computer printouts, prospectuses, financial statements, schedules, affidavits, contracts, canceled checks, statements, transcripts, statistics, surveys, magazine or newspaper articles, releases (any and all drafts, alterations and modifications, changes and amendments of any of the foregoing), graphic or natural records or representations of any kind (including without limitation photographs, microfiche, microfilm, videotape, recordings, motion pictures) and electronic, mechanical or electric records or representations of any kind (including without limitation emails, tapes, cassettes, discs and records).

3. The term “all documents” means every document or group of documents as above defined that are known to you or that can be located or discovered by reasonably diligent efforts.

4. As used herein the singular shall include the plural, the plural shall include the singular, and masculine, feminine and neuter shall include each of the other genders.

5. When producing the documents, please keep all documents segregated by the file in which the documents are contained and indicate the name of the file in which the documents are contained and the names of the documents being produced.

6. In the event such file(s) or document(s) has (have) been removed for the purposes of this action or for some other purpose, please state the name and address of the person who removed the file, the title of the file and each sub-file, if any, maintained within the file, and the present location of the file.

7. If you choose to withhold any documents from production for inspection and copying on the ground of privilege or the like, it is requested that, in addition to identifying the documents so withheld, you state the grounds for withholding the documents.

8. As used herein, "reflecting to," "referring to" and "relating to" shall mean comprising, directly or indirectly mentioning or describing, pertaining or referring to, being connected with, reflecting upon or resulting from the stated subject matter.

9. Further, electronic records should be provided as follows:

- a. The documents should be provided in native electronic format if that is a common and widely used format. If the native format is unavailable or it is not common and widely used then the documentation can be provided in another electronic format such as PDF.
- b. When producing electronic documents include all original and unaltered metadata, including file system metadata. If necessary this information can be supplied in a separate document.
- c. All of the data should be provided on a read only media such as CD or DVD that is appropriately labeled. Each file on the media should have its digital fingerprint, such as MD5 hash or SHA-1 hash, determined and that value recorded in a document that is contained on the media.

- d. If the same media is used for producing different data sources then each source, such as individual workstations, servers, and backup tapes whether onboard any ship or shore based facility, should be provided in separate folders on the media and the source and period covered by the data identified.

#### **DEFINITIONS**

1. "AAFCO" is the American Association of Feed Control Officials.
2. "APPMA" is the American Pet Products Manufacturers Association.
3. "BHA" is butylated hydroxyanisole.
4. "BHT" is butylated hydroxytoluene.
5. "BSE" is bovine spongiform encephalopathy.
6. "Co-packer" is a company or companies that manufacture commercial pet food for any brand that you market to the American public
7. "CVM" is the Center for Veterinary Medicine at the Food and Drug Administration
8. "FDA" is the Food and Drug Administration
9. "PFI" is the Pet Food Institute

#### **RELEVANT TIME PERIOD**

The relevant time period, for purposes of these discovery requests, is January 1, 2003 to the present, if not specifically stated in the request and unless otherwise noted.

#### **DOCUMENTS AND THINGS TO BE PRODUCED**

1. Any and all documents reflecting complaints made by you to the National Advertising Division Council of Better Business Bureaus regarding any pet food advertising, including your competitors' advertising.
2. Any and all documents reflecting complaints made by third parties, including competitors, about any of your pet food(s) to the National Advertising Division Council of Better Business Bureaus regarding any pet food advertising.
3. All documents submitted to the National Advertising Division Council of Better Business Bureaus regarding any pet food advertising.

4. All documents from the National Advertising Division Council of Better Business Bureaus regarding any pet food advertising.
5. Documents reflecting a list of cases in which you have been named as a Defendant for the past ten (10) years relating to any and all commercial pet foods.
6. Documents reflecting a list of cases in which you have been named as a Plaintiff for the past ten (10) years relating to any and all commercial pet foods.
7. All communications sent to breeders regarding any or all of your commercial pet food products.
8. All communications received from breeders regarding any or all of your commercial pet food products.
9. All documents used by sales representatives to market to breeders.
10. All documents reflecting the names, addresses and telephone numbers of any and all sales representatives for any and all of your commercial pet foods to breeders.
11. All documents or any other materials provided to sales representatives to market to breeders.
12. Any and all agreements entered into with veterinarians regarding your commercial pet food.
13. Any and all material provided to breeders at dog or cat shows regarding your pet food and nutrition for cats and dogs.
14. Documents reflecting the sponsorship of dog or cat shows.
15. Documents reflecting any incentive programs for any breeders to use your pet food.
16. All materials from seminars held for breeders.
17. Documents reflecting the breeders who have been involved in any program that you have sponsored.
18. All promotional and marketing materials provided to breeders.
19. All documents reflecting any amount of money or any form of compensation received by breeders for promoting, selling and/or distributing any of your commercial pet food products.
20. Documents and/or market studies reflecting profits based on sales of pet food through breeder recommendations.

21. Documents and/or market studies reflecting profits made based on breeder recommendations of your pet food.
22. Agreements between you and all breeders.
23. All documents reflecting any contracts you have with breeders of cats and/or dogs relating to your pet food and/or treats.
24. All documents indicating whether any representative from your company attended any dog or cat show between May 9, 2003 to the present, including the date of the cat or dog show and the name, address and telephone number of the persons who appeared at the dog or cat shows.
25. Documents indicating the amount of free samples of pet food and/or treats provided to breeders.
26. Documents indicating any sort of program(s) that you have with dog and/or cat breeders relating to your dog and/or cat food.
27. All materials sent to breeders regarding your pet food.
28. All materials sent from breeders regarding your pet food.
29. All complaints made by breeders regarding your pet food.
30. All documents reflecting any contracts you have with breeders of cats and/or dogs relating to your pet food and/or treats.
31. All documents indicating whether any representative from your company attended any dog or cat show between May 9, 2003 to the present, including the date of the cat or dog show and the name, address and telephone number of the persons who appeared at the dog or cat shows.
32. Documents indicating the amount of free samples of pet food and/or treats provided to breeders.
33. Documents indicating any sort of special program that you have with dog and/or cat breeders relating to your dog and/or cat food.
34. All materials sent to breeders regarding your pet food.
35. All materials sent from breeders regarding your pet food.
36. All complaints made by breeders regarding your pet food.

37. All press releases from January 1, 2003 to the present.
38. All press releases made by your parent company from January 1, 2003 to the present regarding any brand of your pet food.
39. All documents reflecting the knowledge of pet food consumers regarding the ingredients of pet food.
40. All documents reflecting the knowledge of pet food consumers regarding the nutrition requirements of cats.
41. All documents reflecting the knowledge of pet food consumers regarding the nutrition requirements of dogs.
42. All documents reflecting the knowledge of pet food consumers regarding the long-term nutrition requirements of cats.
43. All documents reflecting the knowledge of pet food consumers regarding the long-term nutrition requirements of dogs.
44. Documents reflecting all advertising agencies that you have hired to market your pet food, including the names of the individuals or companies, addresses and telephone numbers.
45. All communications sent to advertising agencies regarding marketing any or all of your pet foods for the last ten (10) years.
46. All communications received from advertising agencies regarding marketing any or all of your pet foods for the last ten (10) years.
47. All marketing materials developed or created to market any or all of your commercial pet food whether the advertisement was intended for television, internet, print, radio or any other media, including any packaging or container used to sell pet food to consumers in the United States.
48. All marketing materials provided to any and all retail stores for the past ten (10) years relating to any and all of your pet foods.
49. Any and all market research studies that you have conducted from January 1, 2003 to the present.
50. Any and all market research studies that you have obtained from any source from January 1, 2003 to the present.
51. All documents reflecting your gross total sales of pet food by year from January 1, 2003 through the present.

52. All documents reflecting your net total sales of pet food by year from January 1, 2003 through the present.
53. All documents reflecting your net total sales of pet food by year from January 1, 2003 through the present, broken down by brand.
54. All documents reflecting your total market share of the pet food industry by year from January 1, 2003 to the present.
55. All documents reflecting your total market share of the pet food industry by year from January 1, 2003 to the present, broken down by brand.
56. All documents reflecting customer demographics for your pet food by geographical area of the United States.
57. All documents reflecting analyses of customer buying and spending habits on pet food and treats, including but not limited to, amounts spent per year on purchases of pet food by individual consumer.
58. All marketing materials developed or created to market any or all of your commercial pet food for the last ten (10) years.
59. Documents reflecting who in your company approved of all marketing materials developed or created to market any or all of your commercial pet food for the last ten (10) years.
60. Documents reflecting the organizational structure of your sales and marketing employees.
61. Documents reflecting the names, addresses and telephone numbers of all current and former sales and marketing employees for the past five (5) years.
62. All marketing, demonstration and sales materials used to sell and/or promote any of your pet food brands at any retail store, including employees of retail stores.
63. All documents reflecting budgets for marketing any and all brands of your pet food, including grocery store brands.
64. Any and all market comparisons and studies between any of your brands of pet food and your competitors.
65. Any and all Euromonitor or other market studies of the pet food industry.
66. All documents reflecting your market share of the pet food industry, both as a whole and by brand, as opposed to your competitors.



67. All customer surveys that you have undertaken relating to your pet food brands and the reports and/or analyses based on those customer surveys.
68. Documents relating to any focus groups that you have conducted relating to your pet food brands and the reports and/or analyses based upon those customer surveys.
69. Documents relating to any focus groups that you have requested a third party to undertake on your behalf relating to your pet food brands and the reports and/or analyses based upon those customer surveys.
70. All customer surveys that you have conducted relating to your pet food brands and the reports and/or analyses based upon those customer surveys.
71. All customer surveys that you have requested a third party to undertake on your behalf relating to your pet food brands and the reports and/or analyses based upon those customer surveys.
72. All internet based customer surveys and/or focus group studies whereby you have obtained information from individuals via the internet relating to your brands of commercial pet food.
73. All internet based customer surveys and/or focus group studies whereby you have requested a third party to obtain information from individuals via the internet relating to your brands of commercial pet food.
74. All marketing department reports, analyses and surveys identifying the target customer, including customer demographics, geographic areas and zip code capture.
75. All marketing and other incentives directed to breeders for exclusively marketing, selling and/or giving samples of your pet food to members of the public or potential customers.
76. All marketing and other incentives offered to veterinarians, including incentives for exclusively selling your pet food and treats.
77. All marketing and other incentives directed to shelter and rescue groups for marketing, selling and/or giving your pet food to individuals assuming responsibility for a cat or dog.
78. Any and all incentives to retailers to market any particular brand of your pet food.
79. Any and all information exchanged between retailers and manufacturers regarding the marketing and selling of your pet food.
80. Analyses of marketing surveys relating to demographics, geographical distribution and zip code capture of customers by brand of pet food.

81. All documents relating to dollars per transaction for each brand of pet food and reports and memoranda analyzing same.
82. All documents relating to average dollar per sale for each brand of pet food and reports and memoranda analyzing same.
83. All documents relating to employee incentives to market and/or sell any brand of pet food and treats in terms of prizes, honors, bonus or money incentives.
84. All documents relating to sales staff force ranking per hour.
85. All records of customer target market, including names, addresses and telephone numbers, history of purchase, customer lists and lists of frequent buyers' names addresses, telephone numbers and brands of pet food and treats purchased, where purchased and when purchased.
86. Zip code analyses to indicate where and how to stock retail stores and demographics regarding customer base.
87. All studies relating to marketing analyses indicating household income, ethnicity, age, income and dollars spent, including per cat and dog.
88. All documents indicating the persons responsible for approving of each brands' marketing and advertising materials, whether for written media, television or any other media.
89. All documents reflecting the extent of the knowledge of the highest ranking person in the marketing department as to what claims made in the marketing and promotional materials for each brand is supported by scientific study and research.
90. All documents reflecting the extent of the knowledge of the highest ranking officer of the company's knowledge as to what claims made in the marketing and promotional materials for each brand is supported by scientific study and research.
91. All documents reflecting the extent of the knowledge of the company's highest ranking veterinarian or medical scientist as to what claims made in the marketing and promotional materials for each brand is supported by scientific study and research.
92. All documents, including marketing studies, analyses, reports and memoranda, regarding any brand manufactured and sold by a competitor.
93. All documents reflecting the names, addresses and telephone numbers of any and all persons paid by your company to discuss and/or answer questions about your pet food and/or treats at any retail store in the United States.

94. Documents indicating the manner in which any and all persons were paid by your company to discuss and/or answer questions about your pet food and/or treats at any retail store in the United States, including how they were compensated and the basis for their compensation and/or bonuses.
95. Documents indicating the purpose for having representatives identifying themselves as having knowledge about your pet food and/or treats at retail stores.
96. All manuals, hand outs, three dimensional objects or any other materials used by your employees to train persons paid by your company to discuss and/or answer questions about your pet food and/or treats at any retail store in the United States.
97. Any and all written documents used to advise any personnel at your company or any third party paid by your company who deal with the public regarding the quality of your pet food.
98. Any and all written documents used to advise any personnel at your company or any third party paid by your company who deal with the public regarding the contents of your pet food.
99. Documents reflecting the locations of all stores where your company paid persons to discuss and/or answer questions about your pet food and/or treats to consumers anywhere in the United States.
100. All materials provided to persons paid by you to discuss and/or answer questions about your pet food and/or treats at any store in the United States.
101. All materials provided to you by persons paid by you to discuss and/or answer questions about your pet food and/or treats at any store in the United States.
102. All documents reflecting any pet food and/or treats that were marketed to consumers directly, whether through providing samples or otherwise.
103. All documents filed with the Securities and Exchange Commission for the past five (5) years for you and your ultimate parent.
104. Transcripts of all investor conferences.
105. All internal accounting documents and reports that track profits via specific brands of your pet food.
106. Balance sheets for you and your pet food related companies for the past five (5) years.
107. Summaries of profits made by you and your pet food related companies for the past five (5) years.

108. All studies, analyses and other data maintained or kept by your company relating to the finances of any pet food or treat competitor, including but not limited to, gross income, operating costs, marketing and advertising budget and detailed line items as to what specifically is budgeted and for what purpose, and where and how the money is intended to be spent.
109. All documents reflecting the difference between pet food purchased at grocery stores and "premium" pet food.
110. All documents reflecting the difference between pet food purchased at grocery stores and "ultra-premium" pet food.
111. All documents reflecting testing of your brands of pet food.
112. All documents reflecting testing of your competitors' brands of pet food.
113. Any and all documents relating to any trace of pentobarbital found in your pet food. The relevant time period for this request is the last fifteen (15) years.
114. Any and all documents received from the FDA regarding pentobarbital in your pet food. The relevant time period for this request is the last fifteen (15) years.
115. Any and all documents sent to the FDA regarding pentobarbital in your pet food. The relevant time period for this request is the last fifteen (15) years.
116. Any and all studies, investigations and/or reports regarding pentobarbital in any pet food. The relevant time period for this request is the last fifteen (15) years.
117. Any and all documents received from the FDA regarding pentobarbital in a competitor's pet food. The relevant time period for this request is the last fifteen (15) years.
118. Any and all documents sent to the FDA regarding pentobarbital in a competitor's pet food. The relevant time period for this request is the last fifteen (15) years.
119. Any and all documents received from the PFI regarding pentobarbital in your pet food. The relevant time period for this request is the last fifteen (15) years.
120. Any and all documents sent to the PFI Institute regarding pentobarbital in your pet food. The relevant time period for this request is the last fifteen (15) years.
121. Any and all documents sent to the PFI regarding pentobarbital in a competitor's pet food.
122. Any and all documents received from the PFI regarding pentobarbital in your pet food.
123. Any and all documents reflecting DNA test results of your pet food for euthanized cats and/or dogs.

124. Any and all documents reflecting PCR test results of your pet food for euthanized cats and/or dogs.
125. Any and all documents reflecting DNA test results of your competitors' pet food for euthanized cats and/or dogs.
126. Any and all documents reflecting PCR test results of your competitors' pet food for euthanized cats and/or dogs.
127. Any and all documents relating to DNA testing of your pet food for euthanized cats and/or dogs.
128. Any and all documents relating to PCR testing of your pet food for euthanized cats and/or dogs.
129. Any and all documents relating to BHA in your pet food.
130. Any and all documents received from the FDA regarding BHA in your pet food.
131. Any and all documents sent to the FDA regarding BHA in your pet food.
132. Any and all documents received from the FDA regarding BHA in a competitor's pet food.
133. Any and all documents sent to the FDA regarding BHA in a competitor's pet food.
134. Any and all documents received from the PFI regarding BHA in your pet food.
135. Any and all documents sent to the PFI Institute regarding BHA in your pet food.
136. Any and all documents sent to the PFI regarding BHA in a competitor's pet food.
137. Any and all documents received from the PFI regarding BHA in your pet food.
138. Any and all documents relating to BHT in your pet food.
139. Any and all documents received from the FDA regarding BHT in your pet food.
140. Any and all documents sent to the FDA regarding BHT in your pet food.
141. Any and all documents received from the FDA regarding BHT in a competitor's pet food.
142. Any and all documents sent to the FDA regarding BHT in a competitor's pet food.
143. Any and all documents received from the PFI regarding BHT in your pet food.

144. Any and all documents sent to the PFI Institute regarding BHT in your pet food.
145. Any and all documents sent to the PFI regarding BHT in a competitor's pet food.
146. Any and all documents received from the PFI regarding BHT in your pet food.
147. Any and all documents relating to ethoxyquin, including any and all studies, papers or communications from Monsanto or any other third party regarding ethoxyquin.
148. Any and all documents sent to the PFI, AAFCO or CVM relating to ethoxyquin in your pet food.
149. Any and all documents received from PFI, AAFCO or CVM relating to ethoxyquin in competitors' pet food.
150. Any and all documents sent to the PFI, AAFCO or CVM relating to ethoxyquin in competitors' pet food.
151. Any and all documents received from PFI, AAFCO or CVM relating to ethoxyquin in a competitor's pet food.
152. Any and all documents relating to ethoxyquin use at rendering plants and/or facilities, including quantities used in the rendered product.
153. Any and all documents relating to ethoxyquin use at in grains used in your pet food, including quantities used in the rendered product.
154. Any and all agreements entered into between you and any retailer or pet specialty retailer for the past ten (10) years.
155. All documents indicating the number of feeding trials performed by your company for the past ten (10) years, that were not according to the "family rule" in the AAFCO handbook.
156. All documents indicating the chemical analyses performed on your pet food for the past ten (10) years.
157. All documents reflecting the biological availability of your pet food as to cats.

158. All documents reflecting the biological availability of your pet food as to dogs.

Respectfully submitted,

/s Catherine J. MacIvor

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#### **CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that the foregoing was sent via electronic mail to all counsel on the attached service list on April 17, 2008.

/s Catherine J. MacIvor

Catherine MacIvor

**SERVICE LIST**

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