

# Exhibit H

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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Titlecraft, Inc., a Minnesota  
Corporation

File No: 10-CV-758-RHK-JJK

Plaintiff,

vs.

National Football League and  
NFL Properties, LLC,  
Defendants.

**PLAINTIFF TITLECRAFT'S  
FIRST SET OF REQUESTS FOR  
PRODUCTION TO DEFENDANTS  
NFL and NFL PROPERTIES, LLC**

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TO: Defendants National Football League and NFL Properties, LLC, through their Attorney Daniel J. Connolly, FAEGRE & BENSON, 2200 Wells Fargo Center, 90 South Seventh Street, Minneapolis, Minnesota 55402.

PLEASE TAKE NOTICE Plaintiff Titlecraft, Inc. (Titlecraft) demands that Defendants National Football League and NFL Properties, LLC (NFL and/or Defendants) respond to these requests within the time prescribed in Rule 34 of the Federal Rules of Civil Procedure. These requests are continuing in nature and require supplemental answers if Defendants obtains further information between the time of service and the time of trial.

**DEFINITIONS**

- A. "Communication" means any oral or written communication including the definitions of conversation and document above.
- B. "Computer" means any programmable machine, including but not limited to, computer systems, servers, networks, e-mail systems, voice-mail systems, network servers, databases, desktops, laptops, notebook computers, employees' home computers, mainframes, electronic messaging (text or instant messages) systems, PDA's (personal digital assistants such as PalmPilots, Blackberries, Treos, and other devices), mobile or cell

phones and pagers, MP3 players (including iPods), digital cameras, any devices with memory cards and flash drives (also known as thumb drives or key chain drives), CDs, DVDs and backup or archival tapes or other similar storage media (including but not limited to floppy disks, hard drives, CD-ROMS, zip disks, punch cards, magnetic tape, backup tapes, Jaz cartridges, and computer chips) on which information has been saved, and any and all equipment needed to read any such material.

- C. "Conversation" shall mean any form of oral communication regardless of the number of people or the method of communication.
- D. When the word "describe" is used in reference to a factual situation or allegation, means to state with particularity all facts known to you connected with, bearing upon, or relating to the matters of which inquiry is made.
- E. "Document", "writing", "electronically stored information", or "correspondence" or the plural of these words as used herein shall mean all materials and data compilations that are in your possession, custody or control or which are believed by you to exist or previously to have existed. Without limiting the generality of the foregoing, they shall specifically include all letters, correspondence, memoranda, papers, e-mails, records, books, invoices, contracts, communications, minutes, notes, audits, calendars, appointment books, telegram messages, telephone messages, schedules, tabulations, research documents, resumes, checks, drafts, vouchers, accounts, statements, affidavits, reports, abstracts, worksheets, agreements, journals, diaries, drawings, market data, newspapers, films, tapes, videos, internal websites, disks, data sheets, data processing cards, computer storage devices, or any other reduction to tangible forms, including originals, copies and reproductions by whatever means made, stored, or transmitted including electronic.
- F. "Document" or "electronically stored information" further includes, without limitation, any electronically stored data or paper document, including: writings (whether handwritten, typed, printed, or otherwise produced as well as writing in computer readable form, whether facsimile, electronic, magnetic, or digital); drawings; graphs; sound recordings; images; other data or data compilations stored in any medium from which information can be obtained, including computers and other electronic devices; electronically stored data on magnetic or optical storage media as an "active" file or files (readily readable by one or more computer applications or forensics software); any electronic files saved as a backup; any "deleted" but recoverable electronic files on said media; any electronic

file fragments (files that have been deleted and partially overwritten with new data); and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data); all information stored in a digital format, including but not limited to, electronic mail messages and attachments, contacts, journal entries, calendar entries, word processing documents, spreadsheets, databases – including all records and fields and structural information – charts, graphs, and any and all miscellaneous files.

In addition, “document” or electronically stored information” includes: (i) the original and all non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind); and (ii) files, folder tabs, and containers and labels appended to, or associated with, any physical storage device associated with each original and copy of all documents requested herein.

- G. “Electronic mail” or “e-mail” means any communication made electronically via an electronic mail system, including any attachments, such as word process and other electronic documents, which may be transmitted with the message.
- H. "Person" or "Persons" shall mean any individual, firm, partnership, association, corporation, or other legal or commercial entity.
- I. "You" and/or "your" shall mean National Football League and NFL Properties (unless the content of the interrogatory indicates otherwise) as well as any and all present or former officers, agents, attorneys, representatives, employees, or other persons acting or purporting to act on your behalf at any time.

### **INSTRUCTIONS**

- I. A. Whenever in these document requests you are asked to identify a conversation, you shall state:
  - 1. The date, time and place (or places if by telephone) it occurred;
  - 2. The method of communication used, that is, by telephone, in person, or by other means, and if by telephone, specify the call and the person called;
  - 3. The identity of all persons participating or present;

4. The substance of the conversation; and
  5. The identity of all documents or records summarizing or otherwise arising from, relating to, or reflecting such conversation.
- B. Whenever in these document requests you are asked to identify a document you shall state:
1. The author;
  2. The subject matter, title and date, and the total number of pages thereof;
  3. The type of document (e.g., letter, memorandum, telegram, invoice, etc.);
  4. The identity of the person or persons to whom the original and all copies were sent and who you believe may have knowledge of the contents thereof;
  5. Present or last known location and possessor of the original of the document, or each copy thereof; and
  6. The substance of the document, or each copy thereof.
- C. Whenever in these document requests you are asked to identify a "person" or "persons", you shall state the following for each:
1. Full name;
  2. Present or last known home and business address;
  3. Date of employment;
  4. Present or last known job title and job descriptions; and
  5. Job title and job description at the time in question.
- D. "Lost or destroyed documents." If any document for which identification is requested was formerly in existence or in your possession but no longer exists, or no longer is within your possession, custody or control, your identification should state for each document:
1. An identification of the document and its author and addressee(s);
  2. The date and circumstances of the document's loss or destruction; and
  3. The reason or justification for such loss or destruction.
- E. Should you deem any documents relating to any of the following requests to be privileged, you must indicate your claim of privilege and briefly state the nature of the document, its sender, author, recipients, date, and a summary of the subject matter in sufficient detail to permit the Court to determine the validity of the privilege claim.

## **DOCUMENT REQUESTS**

1. All documents you reviewed, referred to, relied upon, or identified in answering Titlecraft's first set of interrogatories to you. Include all documents used to prepare your answers.
2. The resumes or curriculums vitae of each expert witness who has either assisted in your investigation or lawsuit, or whom you expect will testify as a witness on your behalf at trial.
3. Copies of all materials related to this lawsuit and either reviewed or generated by each expert witness retained or consulted by you. This should include all reports and memoranda, that wholly or partially state the substance of the facts and opinions to which each expert who you retained, consulted with, or whom you expect to call at the time of trial in connection with this matter is expected to testify.
4. All documents you will or may offer as exhibits at trial. If inconvenient to produce an item, a photograph, copy, or detailed description of each exhibit is demanded.
5. All statements made by parties or non-parties concerning this action or its subject matter as described in the Complaint or Defendants' Answer to Complaint and Counterclaim
6. All documents regarding the identification and knowledge of Titlecrafts' alleged infringements from the time of the initial identification of the alleged infringements.
7. All documents and things relating to any and all fantasy football award manufacturer(s) that Defendant believes or has believed infringe and/or dilute intellectual property rights associated with the Lombardi Trophy, including but not limited to the name and address of each such fantasy football award manufacturer, the identity of each product alleged to infringe and/or dilute such intellectual property rights, and the identity of the specific intellectual property right that is and/or was alleged to be infringed and/or diluted.

8. All documents relating to the identities and scope of all licenses that the NFL has provided for any product or service that relates to the Lombardi Trophy or the NFL.
9. All documents in the possession, custody or control of Defendants including but not limited to search reports, market surveys, interoffice memoranda, etc., referring or relating to the adoption of the Copyright and Trademark rights of the Lombardi Trophy.
10. All documents in the possession, custody or control of Defendants relating to the purchase/sale of every Lombardi Trophy, including the dates of each such receipt and the consideration provided to Defendant by each recipient for each Lombardi Trophy.
11. All documents in the possession, custody or control of Defendants relating to all instances of actual confusion as described in Defendants Answer/Counter-Claim.
12. All documents relating to any study, research, focus group, testing or similar validation procedure employed by Defendants or any person or entity at Defendants request or on behalf of Defendants to determine the presence and/or absence of any confusion between the Lombardi Trophy and any other fantasy football trophy, including but not limited to Titlecraft's trophy since 1990.

Respectfully submitted,

s/ Justin L. Seurer

Dated: October 1, 2010

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*Attorney for Plaintiff*  
*Titlecraft, Inc.*

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- F. "Document" or "electronically stored information" further includes, without limitation, any electronically stored data or paper document, including: writings (whether handwritten, typed, printed, or otherwise produced as well as writing in computer readable form, whether facsimile, electronic, magnetic, or digital); drawings; graphs; sound recordings; images; other data or data compilations stored in any medium from which information can be obtained, including computers and other electronic devices; electronically stored data on magnetic or optical storage media as

an “active” file or files (readily readable by one or more computer applications or forensics software); any electronic files saved as a backup; any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data); and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data); all information stored in a digital format, including but not limited to, electronic mail messages and attachments, contacts, journal entries, calendar entries, word processing documents, spreadsheets, databases – including all records and fields and structural information – charts, graphs, and any and all miscellaneous files.

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  3. The identity of all persons participating or present;
  4. The substance of the conversation; and
  5. The identity of all documents or records summarizing or otherwise arising from, relating to, or reflecting such conversation.
- B. Whenever in these interrogatories you are asked to identify a document you shall state:
1. The author;
  2. The subject matter, title and date, and the total number of pages thereof;
  3. The type of document (e.g., letter, memorandum, telegram, invoice, etc.);
  4. The identity of the person or persons to whom the original and all copies were sent and who you believe may have knowledge of the contents thereof;
  5. Present or last known location and possessor of the original of the document, or each copy thereof; and
  6. The substance of the document, or each copy thereof.
- C. Whenever in these interrogatories you are asked to identify a "person" or "persons", you shall state the following for each:
1. Full name;
  2. Present or last known home and business address;
  3. Date of employment;
  4. Present or last known job title and job descriptions; and
  5. Job title and job description at the time in question.
- D. "Lost or destroyed documents." If any document for which identification is requested was formerly in existence or in your possession but no longer exists, or no longer is within your possession, custody or control, your identification should state for each document:

1. An identification of the document and its author and addressee(s);
2. The date and circumstances of the document's loss or destruction;  
and
3. The reason or justification for such loss or destruction.

### **INTERROGATORIES**

1. Identity all individuals (e.g., employees and agents of Defendant as well as all individuals who have been and/or are in communication with Defendant, including each individual's full name, employment position and employer) having knowledge of Titlecraft's products and/or its alleged infringement/dilution of Defendant's alleged intellectual property rights relating to the Lombardi Trophy, all sources (e.g., persons, documents, and things) relied upon for such knowledge, and all (non-privileged) communications sent or received by or in the possession of each such individual relating to Titlecraft's products and/or its alleged infringement/dilution of Defendant's alleged intellectual property rights relating to the Lombardi Trophy.
2. Identify all documents and things relating to any and all fantasy football award manufacturer(s) that Defendant believes or has believed infringe and/or dilute intellectual property rights associated with the Lombardi Trophy, including but not limited to the name and address of each such fantasy football award manufacturer, the identity of each product alleged to infringe and/or dilute such intellectual property rights, and the identity of the specific intellectual property right that is and/or was alleged to be infringed and/or diluted.
3. Identify and describe in detail the names, identities and scope of all licenses (including covenants not to sue) of which Defendant is or was a party and relates to any intellectual property rights associated with the Lombardi Trophy and/or the NFL.
4. Identify each individual involved with establishing and/or attempting to establish intellectual property rights relating to the Lombardi Trophy, including the full name of each individual, each individual's employment position/title, each individual's employer, and the corresponding intellectual property right with which each individual is/was associated.
5. Identify all documents and things in the possession, custody and/or control of Defendants including, but not limited to, letters, search reports, market surveys, emails, notes, and interoffice memoranda relating to intellectual property rights for the Lombardi Trophy.

6. Identify all recipients of the Lombardi Trophy, including the dates of each such receipt and the consideration provided to Defendant by each recipient for each Lombardi Trophy.
7. Describe in detail all instances of actual confusion known to Defendants as described in Defendants Answer/Counter-Claim, and identify all documents in the possession, custody and/or control of Defendants relating to each such instance of confusion.
8. Identify any study, research, focus group, testing or similar validation procedure employed by Defendants or any person or entity at Defendants request or on behalf of Defendants to determine the presence and/or absence of any actual confusion between the Lombardi Trophy and any other fantasy football award, including but not limited to Titlecraft's trophy, since 1990.

Respectfully submitted,

s/ Justin L. Seurer

Dated: October 1, 2010

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