

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SAINT LOUIS UNIVERSITY,)
a Missouri benevolent corporation,)
)
Plaintiff,)
)
v.)
)
AVIS MEYER,)
)
Defendant.)

Case No. 4:07-cv-01733

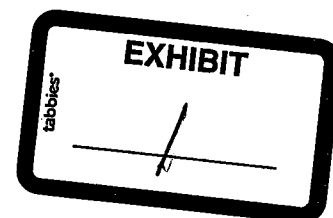
**STATEMENT OF UNCONTROVERTED FACTS FOR DEFENDANT'S
MOTION AND MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT
AVIS MEYER'S MOTION FOR SUMMARY JUDGMENT AS TO COUNTS I-
VI OF THE COMPLAINT**

1. Plaintiff is an institution of higher education in St. Louis, Missouri. (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant's Answer).

2. In this action, Plaintiff has asserted infringement of the alleged marks "St. Louis University," "*The University News*," and "A Student Voice of St. Louis University Since 1921." (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant's Answer).

3. For over three decades, Meyer has been employed by Plaintiff and served as advisor for the student newspaper, *The University News*. (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant's Answer).

4. On March 16, 2007, Meyer submitted to the Missouri Secretary of State Articles of Incorporation for a non-profit corporation using the name "The University



News, a Student Voice Serving St. Louis University Since 1921.” (d/e 1, Complaint and d/e 7, Defendant’s Answer).

5. In the Articles of Incorporation, Meyer states the entity's purpose is the "publication of a weekly newspaper." (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant’s Answer).

6. A Certificate of Incorporation was issued to the non-profit organization by the Missouri Secretary of State using the name "The University News, a Student Voice Serving Saint Louis University Since 1921." (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant’s Answer).

7. On or about August 21, 2007, Meyer filed with the Missouri Secretary of State Articles of Termination and Articles of Dissolution by Voluntary Action for a Nonprofit Corporation. Meyer listed his home address for the registration and Meyer he listed Plaintiff’s business address on the dissolution paperwork. Meyer included a cover letter with the request for termination and dissolution of the nonprofit corporation that was printed on letterhead displaying the name of Plaintiff’s campus newspaper, *The University News*, the related caption “A Student Voice of Saint Louis University Since 1921,” and the contact information (including address, phone number and facsimile number) of Plaintiff’s publication office. A Certificate of Dissolution was issued to the non-profit organization. (d/e 1, Complaint, Facts Common To All Counts and d/e 7, Defendant’s Answer).

8. On or about October 11, 2007, Plaintiff filed its Complaint in this cause of action alleging: under Count I trademark infringement under 15 U.S.C. § 1114 of the registered mark SAINT LOUIS UNIVERSITY; under Counts II and III trademark

infringement and false designation of origin under 15 U.S.C. § 1125(a) and Missouri common law of the unregistered terms “The University News” and “A Student Voice Service St. Louis University Since 1921”; under Count IV unfair competition based upon unspecified marks under 15 U.S.C. § 1125(a); under Count V unfair competition based upon the terms “The University News” and “A Student Voice Service St. Louis University Since 1921” under Missouri Common Law; under Count VI dilution of the terms “Saint Louis University,” “The University News,” and the related caption “A Student Voice Serving Saint Louis University Since 1921” under Missouri Revised Statute § 417.061, *et seq.*; and under Count VII misuse of a benevolent society’s name for the name “St. Louis University” under Missouri Revised Statute § 417.150, *et seq.* (d/e 1, Complaint, Counts I-VII).

In its Complaint, Plaintiff asserts:

“Meyer’s acts are likely to cause instances of actual confusion, to cause mistake, and/or to deceive the public into believing that the newspaper distributed by Defendant is in some way sponsored by, connected to, or affiliated with SLU; (d/e 1, ¶ 31);

Meyer’s acts are likely to deceive the public into believing that a newspaper published by Defendant is that of SLU or sponsored by SLU; (d/e 1, ¶ 43);

Meyer’s acts are likely to cause and/or has caused confusion, deception, and mistake among the public by creating an erroneous impression that a publication sold, offered for sale, distributed, or advertised by Defendant has been printed by, approved, sponsored, endorsed, or guaranteed by, or are in some way affiliated with SLU; (d/e 1, ¶ 44);

Meyer’s acts are likely to cause and/or has caused confusion as to the source of Defendant’s products in that the public will likely associate and/or have associated such products as originating or affiliated with SLU, all to the detriment of SLU; (d/e 1, ¶ 54);

Meyer's acts are likely to continue to cause confusion and mistake among the public as to the affiliation, connection, or association of Defendant and Plaintiff concerning such a publication; (d/e 1, ¶ 64));

Meyer's acts have caused and/or will cause actual confusion and are likely to continue to cause confusion and mistake among the public as to the origin, sponsorship, or approval of Defendant's newspaper by Plaintiff; (d/e 1, ¶ 65);

Meyer's acts unfairly uses and/or will unfairly use the reputation and goodwill associated with Plaintiff's trademarks; (d/e 1, ¶ 75);

Meyer's acts are likely to continue to cause confusion and mistake among the public as to the affiliation, connection, or association of Defendant and SLU concerning such a publication; (d/e 1, ¶ 76);

Meyer's acts have caused, or will cause, dilution of the distinctive quality of the mark and will continue to do so if Defendant does not stop such activity; (d/e 1, ¶ 86);

Meyer's acts are calculated to deceive the public respect to the association of Defendant and Plaintiff; and (d/e 1, ¶ 97);

Meyer's acts result in loss of goodwill, and damage to Plaintiff's goodwill and reputation as a result of Defendant's acts. (d/e 1, ¶D, p. 14)."

9. On or about February 20, 2008, Plaintiff served its Initial Disclosures Pursuant To Federal Rule of Civil Procedure 26(a). (Copy of Plaintiff's Initial Disclosures are attached hereto as Exhibit A, and incorporated by reference herein.). In its Initial Disclosures under the heading "Relevant Document and Things," Plaintiff responded:

"Plaintiff may use documents related to Saint Louis University's extensive and long standing use of the trademarks and intellectual property infringed by Defendant." (Exh. A.)

10. On or about June 19, 2008, Defendant served its First Set of Interrogatories and its First Request for Production of Documents and Things (collectively "Defendant's Requests") upon Plaintiff. (Copies of relevant portions of

Defendant's Requests are attached hereto as Exhibit B, and incorporated by reference herein.

11. On August 18, 2008, Plaintiff served answers to Defendant's Interrogatories and Requests for Production. (Copies of relevant portions of Plaintiff's answers are attached hereto as Exhibit C, and incorporated by reference herein).

12. In its Interrogatories, Defendant expressly requested the following:

"Identify all persons with knowledge of the Articles of Incorporation, including but not limited to those persons with knowledge of the Article's of Incorporation's: a. formation; b. existence; c. Dissolution or Termination." (Exh. B, Interrogatory. No. 3).

13. In response, Plaintiff asserted numerous objections, and then responded:

"Those persons identified by Avis Meyer and Diana Benanti in their depositions." (Exh. C).

14. In its Interrogatories, Defendant expressly requested the following:

"Indicate all acts of Meyer which SLU contends constitute an act of trademark infringement by Meyer." (Exh. B, Interrogatory. No. 6).

15. In response, Plaintiff asserted numerous objections, and then responded:

(1) Meyer improperly registered a non-profit corporation which incorporates SLU's valuable intellectual property with the intent to trade off the good will of Saint Louis University and its student newspaper;

(2) Meyer used SLU's valuable intellectual property for purposes of raising funds and leasing space to publish a newspaper to be distributed to the Saint Louis University community;

(3) Meyer advertised the non-profit corporation's operations as publishing a student newspaper that would be distributed to and among the Saint Louis University community in competition with any campus paper published by Saint Luis University;

(4) Meyer placed in the public record documents which give the impression that Saint Louis University was affiliated with, approved of, or

sponsored the dissolution of the non-profit corporation, giving the false and confusing impression that SLU had abandoned its rights; and

(5) Other acts not yet revealed by Avis Meyer or for which evidence has been destroyed.”

(Exh. C).

16. In its Interrogatories, Defendant expressly requested the following:

“Set forth all categories and amounts of damages specifying the documents or other evidentiary materials upon which such damages are based or bearing on the nature and extent of such damages and indicate how such damages were calculated.” (Exh. B, Interrogatory. No. 7).

17. In response, Plaintiff asserted numerous objections, and then responded:

“SLU states that it believes it may have suffered damage to the value of its intellectual property in an amount unknown at this time...SLU additionally believes it may have suffered damage to its reputation and ability to obtain and retain students and faculty due to Meyer’s wrongful use of SLU’s benevolent name and intellectual property and unfair competition.” (Exh. C).

18. In its Interrogatories, Defendant expressly requested the following:

“Identify all facts that you contend support your allegation that the alleged wrongdoings by Meyer were willful.” (Exh. B, Interrogatory. No. 8).

19. In response, Plaintiff asserted numerous objections, and then responded:

“Prior to registration of the non-profit corporation Myer deviously proposed an unrelated hypothetical in an attempt to get tacit approval (unbeknownst to SLU) in the event he was caught misusing SLU’s intellectual property. Meyer then made specific efforts to keep the fact of his actions secret. Meyer later intentionally dissolved the non-profit corporation in a confusing manner in order to diminish the value of SLU’s intellectual property rights, potentially hamper [sic] its ability to protect its intellectual property in the future, and apparently in an attempt [to] cover up his wrongful acts.” (Exh. C).

20. In its Interrogatories, Defendant expressly requested the following:

“Identify all facts that you contend support your allegation that the alleged wrongdoings by Meyer were willful and deliberate, designed

especially to trade upon alleged goodwill associated with SLU.” (Exh. B, Interrogatory. No. 9).

21. In response, Plaintiff asserted numerous objections, and then responded:

“SLU additionally incorporates herein by reference its responses to Interrogatory Nos. 6 and 8.” (Exh. C).

22. In its Interrogatories, Defendant expressly requested the following:

“Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER result in SLU suffering and continuing to suffer irreparable harm.” (Exh. B, Interrogatory. No. 10).

23. In response, Plaintiff asserted numerous objections, and then responded:

“Meyer’s actions may leave SLU open to attacks on its intellectual property that SLU may not be able to fully defend absent an injunction or order setting forth the wrongful nature of Meyer’s conduct.” (Exh. C.).

24. In its Requests for Production of documents and things to the Plaintiff, Defendant asked for production of documents and things that support or provide a basis for the allegations, and in particular, Request No. 1 to Plaintiff expressly requested the following:

“All documents or communications concerning the Articles of Incorporation.” (Exh. B, Request No. 1).

25. In response, Plaintiff asserted numerous objections, and then responded:

“Documents, to the extent they exist, will be produced at a mutually agreeable time and location.” (Exh. C).

26. In its Document request, Plaintiff expressly requested the following:

“All documents and communications concerning damages claimed by SLU with regard to this lawsuit.” (Exh. B, Request No. 4).

27. In response, Plaintiff asserted numerous objections, and then responded:
“Documents, to the extent they exist, will be produced at a mutually agreeable time and location.” (Exh. C).
28. In its Document request, Plaintiff expressly requested the following:
“All communications between you and any expert witness in this action.” (Exh. B, Request No. 5).
29. In response, Plaintiff again asserted numerous objections, and then responded:
“No such witness has been identified at this time and no such documents exist.”(Exh. C).
30. In its Document request, Plaintiff expressly requested the following:
“All agreements with any expert witness regarding this lawsuit.” (Exh. B, Request No. 6).
31. In response, Plaintiff again asserted numerous objections, and then responded:
“No such witness has been identified at this time and no such documents exist.”(Exh. C).
32. In its Document request, Plaintiff expressly requested the following:
“All documents referenced in your Fed. R. Civ. P. 26(a) Disclosures.” (Exh. B, Request No. 8).
33. In response, Plaintiff again asserted numerous objections, and then responded:
“Documents will be produced at a mutually agreeable time and location.” (Exh. C).
34. In its Document request, Plaintiff expressly requested the following:

“All documents on which you intend to rely in support of your allegations and/or claims of this case.” (Exh. B, Request No. 9).

35. In response, Plaintiff again asserted numerous objections, and then responded:

“SLU states that a case management order has been entered regarding deadlines for trial exhibits, therefore, no such documents need to be produced at this time.” (Exh. C).

36. In its Document request, Plaintiff expressly requested the following:

“All documents referred to, referenced or relied on answering the First Interrogatories to Plaintiff SLU.” (Exh. B, Request No. 10).

37. In response, Plaintiff again asserted numerous objections, and then responded:

“Documents will be produced at a mutually agreeable time and location.” (Exh. C).

38. On September 8, 2008, September 9, 2008 and September 11, 2008, Plaintiff produced documents in response to Defendant’s Requests for Production, but such production related to the corporation paperwork submitted with the Complaint, news reports of the *University News* charter; news reports of this proceeding; radio program transcript including discussions of the *University News* charter and the corporation paperwork; online blog comments relating to *University News* charter and this proceeding; and Plaintiff’s internal emails relating to *University News* charter and this proceeding. None of said documents support the assertion that Defendant has made a trademark use of Plaintiff’s alleged marks.

DISCLOSURES

(A) Individuals Likely to Have Discoverable Information: As well as those individuals named in the documents identified herein, Plaintiffs identify the following individuals likely to have discoverable information that Plaintiffs may use to support their claims or defenses:

Avis Meyer

Professor Meyer is likely to have discoverable knowledge regarding the allegations set forth in the Complaint filed against him.

(B) Relevant Documents and Things: Plaintiff may use the following documents to support its claims:

Plaintiff may use documents related to Saint Louis University's extensive and long standing use of the trademarks and intellectual property infringed by Defendant.

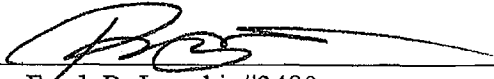
Plaintiff may also use print and other media which include statements by Defendant related to the allegations set forth in the Complaint. Plaintiff may also use Secretary of State documents related to Defendant's registration of the Non-Profit Organization referenced in the Complaint. These documents will be made available for copying and inspection at a mutually convenient time and place.

(C) Damages Claimed by Plaintiff: Plaintiff seeks damages for Defendant's infringement and dilution of Plaintiff's trademarks and Defendant's unfair trade practices as they relate to Plaintiff's names and trademarks to compensate Plaintiff for loss of revenue, donations, loss of goodwill, and damage to its goodwill and reputation as a result of Defendant's acts. The precise amount of damages will become known as discovery is conducted.

(D) Insurance Agreements: Plaintiff is unaware of any insurance agreements relevant to this dispute.

Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

By: 
Frank B. Janoski, #3480
Bridget Hoy, #109375

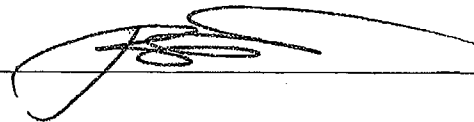
500 North Broadway, Suite 2000
St. Louis, Missouri 63102
Telephone: (314) 444-7600
Facsimile: 314) 241-6056

Attorneys for Plaintiff
SAINT LOUIS UNIVERSITY

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served via U.S. Mail, postage prepaid, upon counsel of record this 20th day of February, 2008 addressed as follows:

Nelson D. Nolte
Scott A. Smith
David L. Howard
POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.
12412 Powerscourt Drive, Suite 200
St. Louis, MO 63131-3615



officers, directors, employees, agents, consultants, attorneys and all other persons acting or purporting to act on behalf, or under the control, of any of the foregoing.

2. Articles of Incorporation. The term "Articles of Incorporation" means the paperwork submitted by MEYER to the Missouri Secretary of State on March 16, 2007 as shown in Exhibit A of the Compliant.

3. You and Your. The terms "you" and "your" mean SLU, as that term is defined herein, and anyone acting on SLU's behalf.

4. Communication. The term "communication" means any oral, written, mechanical, electronic, or other transmission of words, symbols, numbers, depictions to any person, entity, file or repository of data or information (in the form of facts, ideas, inquiries or otherwise).

5. Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34 and by way of further definition, and without limitation, "document" also includes any information stored in a computer retrievable format including computer models, E-mail, and any other form of electronically, optically, magnetically or other machine-readable stored information. When producing information stored in a computerized format you should identify what program or programs were used to create the computer stored information and, if that program is not commercially available, you will identify the source of the program and you are required to make a copy of the program available for copying if not prohibited by copyright laws or any other licensing agreement. A draft or non-identical copy is a separate document within the meaning of this term.

6. Person. The term "person" is defined as any natural person or any business, legal or governmental entity, organization or association.

7. Concerning. The term "concerning" means relating to, referring to, describing, evidencing, constituting or consisting of.

8. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

9. Number. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. A request to identify "all facts" is intended to include without limitation the identification of: (1) all documents and things that relate to the allegation or contention that is the subject of the Interrogatories; (2) any facts SLU claims support any such allegation or contention; and (3) any and all persons having knowledge of any such fact, allegation, contention or position.

2. All interrogatories which call for the identification of a document or writing shall be interpreted to call for the following information with respect to each such document or writing:

- (a) The date, title and subject matter of the document or writing and a brief summary of the contents thereof;
- (b) The person[s], and/or-entity[ies], involved or associated with the creation, preparation, and/or execution of the document or writing;
- (c) The title of the file or folder, if any, in which the document or writing is kept;
- (d) The identity of each person having custody or control of the document or writing, or any copies thereof; and,

- (e) The source of the information sought in (a) - (d) above.

3. All interrogatories which call for the identification of facts shall be deemed to call for the following information with respect to each such fact:

- (a) A full and specific statement of each such fact;
- (b) The identification of each person who has personal knowledge of each such fact;
- (c) The identification of each document or writing which is a source of or which evidences each such fact; and
- (d) The identification of each oral conversation or communication which is a source of or evidences such fact.

4. All interrogatories which call for the identification of a person shall be interpreted to call for, to the extent known, the person's full name; current or last known full address; home telephone number; and current or last known employer, job title, business address and business telephone number of that person.

5. In the event any information is withheld on any claim of privilege or immunity from disclosure, including without limitation a claim of attorney/client privilege or work product immunity, describe in detail the precise basis for the claim of privilege or immunity, identify the requested information that is being withheld with sufficient particularity to enable a claim of privilege or immunity to be adjudicated, and cite any authority which you assert supports any claim of privilege or immunity. If a legal objection based on a claim of privilege or immunity from disclosure applies only to a part of an interrogatory, but not the entirety thereof, state the part to which the claim of privilege or immunity applies and answer the remainder of the Interrogatories.

6. In the case where an identified document has been destroyed or is alleged to have been destroyed, provide the date and reasons for the document's destruction, identify each person with knowledge of its destruction, and identify each person who is responsible for its destruction.

INTERROGATORIES

1. Please provide the name and address of the person or persons answering these interrogatories, including all persons who provided information used in answering these interrogatories.

ANSWER:

2. As to the alleged infringement, state the date and circumstance under which SLU first learned of the Articles of Incorporation and identify the person with knowledge of such circumstance.

ANSWER:

3. Identify all persons with knowledge of the Articles of Incorporation, including but not limited to those persons with knowledge of the Article of Incorporation's:

- a. Formation;
- b. Existence;
- c. Dissolution or Termination.

ANSWER:

4. Identify all persons with whom you have communicated regarding the Articles of Incorporation, including but not limited to those persons with knowledge of the Article of Incorporation's:

- a. Formation;
- b. Existence;
- c. Dissolution or Termination.

ANSWER:

5. State whether SLU obtained any advice of counsel or opinion of counsel as to potential infringement or violation of any rights of SLU, and if so, state for each such opinion or advice of counsel: who rendered it and the date of the opinion or advice was rendered; and identify all documents that show, discuss, or relate to the opinion or advice.

ANSWER:

6. Indicate all acts of MEYER which SLU contends constitute an act of trademark infringement by MEYER.

ANSWER:

7. Set forth all categories and amounts of damages specifying the documents or other evidentiary materials upon which such damages are based or bearing on the nature and extent of such damages and indicate how such damages were calculated.

ANSWER:

8. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER were willful.

ANSWER:

9. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER were willful and deliberate, designed especially to trade upon alleged goodwill associated with SLU.

ANSWER:

10. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER result in SLU suffering and continuing to suffer irreparable harm.

ANSWER:

11. Provide the name, employer, title, business and home addresses and telephone numbers for each person with operational or maintenance responsibility for SLU's computer system(s), including, but not limited to, the person(s) who maintain the hardware on the system(s); the person(s) responsible for installing software on the system(s); the person(s) responsible for the day-to-day operation of the system(s); the person(s) responsible for making backups or archiving files and data on the system(s); and the person(s) who can provide any passwords that may be necessary to access the appropriate computer system(s) or files.

ANSWER:

12. If not the same person(s) as identified in your answer to the immediately preceding interrogatory, identify by job title, job description, and business address and telephone number, the person(s) employed by SLU who is/are the most knowledgeable about the policies, procedures and actual practices for retention and destruction of documents at SLU.

ANSWER:

13. Describe all efforts and procedures taken by SLU for this litigation to gather and secure documents, including, but not limited to, electronically generated or stored word processing files, spreadsheets or other electronic documents, electronic mail, and backup copies of information that may be relevant to the facts of this case. Describe the manner in which the notice of such efforts or procedures was communicated to SLU's employees.

ANSWER:

14. Describe all record retention and destruction policies and procedures followed by SLU including, but not limited to, the date the policy was adopted; the types of documents covered and the respective retention periods; the frequency of document destruction; whether any record is kept or what documents were destroyed, the manner and frequency with which the policy is communicated to SLU's employees; and the identity of all employees with responsibility for implementing and executing the policy.

ANSWER:

15. Identify any data that has been deleted, physically destroyed, discarded, damaged (physically or logically), or overwritten, whether pursuant to a document retention policy or otherwise, since the commencement of this litigation. Specifically identify those documents that relate to or reference the subject matter of this litigation.

ANSWER:

16. For each witness who may be used by you at trial to present evidence under Federal Rules of Evidence 702, 703, or 705 provide all information described in or required by Rule 26(a)(2) of the Federal Rules of Civil Procedure.

ANSWER:

Respectfully Submitted,

POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.

By 

Brian J. Gill, #57,324

Nelson D. Nolte, #53,470

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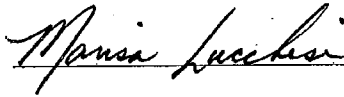
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2008, the foregoing was served via United States Mail, postage prepaid, on the following party:

Frank B. Janoski, #3480
Bridget Hoy, #109375
Lewis, Rice & Fingersh, L.C.
500 North Broadway, Suite 2000
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F (314) 241-6056
E-Mail: fjanoski@lewisrice.com
bhoy@lewisrice.com

ATTORNEYS FOR PLAINTIFF



2. Articles of Incorporation. The term "Articles of Incorporation" means the paperwork submitted by MEYER to the Missouri Secretary of State on March 16, 2007 as shown in Exhibit A of the Compliant.

3. You and Your. The terms "you" and "your" mean SLU, as that term is defined herein, and anyone acting on SLU's behalf.

4. Communication. The term "communication" means any oral, written, mechanical, electronic, or other transmission of words, symbols, numbers, depictions to any person, entity, file or repository of data or information (in the form of facts, ideas, inquiries or otherwise).

5. Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34 and by way of further definition, and without limitation, "document" also includes any information stored in a computer retrievable format including computer models, E-mail, and any other form of electronically, optically, magnetically or other machine-readable stored information. When producing information stored in a computerized format you should identify what program or programs were used to create the computer stored information and, if that program is not commercially available, you will identify the source of the program and you are required to make a copy of the program available for copying if not prohibited by copyright laws or any other licensing agreement. A draft or non-identical copy is a separate document within the meaning of this term.

6. Person. The term "person" is defined as any natural person or any business, legal or governmental entity, organization or association.

7. Concerning. The term "concerning" means relating to, referring to, describing, evidencing, constituting or consisting of.

8. And/Or. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

9. Number. The use of the singular form of any word includes the plural and vice versa.

INSTRUCTIONS

1. These requests are to be regarded as continuing. You are requested to provide by way of supplementary responses, such additional information or documents as may hereafter be obtained by you or any person acting on your behalf which will augment or modify any answer or response.

2. Documents from any single file shall be produced in the same order as they were found in such file, and the files from which they are being produced shall be identified. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

3. If the production of any documents and things responsive to these requests is objected to on the ground of privilege or work product, or for any other reasons, with respect to each such document, state: (1) the identity of its author(s) or creator(s); (2) the identity of its recipient(s); (3) its subject matter; (4) the identity of the person(s) to whom the document or any portion thereof has already been revealed; (5) the source of the document; (6) the date of the document; (7) the Bates number(s); and (8) the basis upon which it is being withheld.

4. If any document that would have been responsive has been destroyed or is otherwise no longer in your possession, custody or control: (1) describe the content of the document, and state the location of all copies in it; and (2) state the date of, and identify the

person responsible for, its destruction, loss, transfer, or other action by which the documents left your possession, custody or control.

REQUESTS

Request for Production No. 1:

All documents or communications concerning the Articles of Incorporation.

RESPONSE:

Request for Production No. 2:

All documents or communications concerning this lawsuit, the disputes raised in this case, or any attempts to resolve this matter, other than privileged communications with your attorney.

RESPONSE:

Request for Production No. 3:

All documents and communications concerning SLU's policy of monitoring and/or enforcing SLU's intellectual property.

RESPONSE:

Request for Production No. 4:

All documents and communications concerning damages claimed by SLU with regard to this lawsuit.

RESPONSE:

Request for Production No. 5:

All communications between you and any expert witness in this action.

RESPONSE:

Request for Production No. 6:

All agreements with any expert witness regarding this lawsuit.

RESPONSE:

Request for Production No. 7:

Organizational charts or other departmental overviews for all information technology or information services departments or divisions, or outsourced information technology services or temporary consultants.

RESPONSE:

Request for Production No. 8:

All documents referenced in your Fed. R. Civ. P. 26(a) Disclosures.

RESPONSE:

Request for Production No. 9:

All documents on which you intend to rely in support of your allegations and/or claims of this case.

RESPONSE:

Request for Production No. 10:

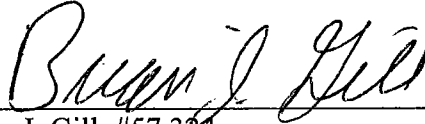
All documents referred to, referenced or relied on answering the First Interrogatories to Plaintiff SLU.

RESPONSE:

Respectfully Submitted,

POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C.

By



Brian J. Gill, #57,324

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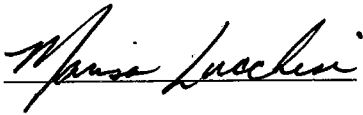
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2008, the foregoing was served via United States Mail, postage prepaid, on the following party:

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Bridget Hoy, #109375
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bhoy@lewisrice.com

ATTORNEYS FOR PLAINTIFF



GENERAL OBJECTIONS

SLU objects to the First Set of Interrogatories propounded by Avis Meyer ("Meyer") in their entirety, on the following grounds:

1. SLU objects to each Interrogatory to the extent it could be construed as encompassing communications or documents protected by any privilege, including but not limited to: (a) the attorney-client privilege; (b) the attorney work-product doctrine; (c) or any other privilege or protection afforded by law. SLU and its counsel hereby assert such privileges and immunities.

2. SLU objects to each Interrogatory to the extent it seeks to impose on SLU obligations beyond those imposed by the Federal Rules of Civil Procedure.

3. SLU objects to each Interrogatory to the extent that the information requested therein is not within the possession, custody or control of SLU.

4. SLU objects to each Interrogatory to the extent it is argumentative and/or calls upon SLU to interpret legal theories or to draw legal conclusions. If Meyer subsequently asserts or prevails on an interpretation of any Interrogatory which differs from that understood by SLU, SLU reserves the right to supplement and/or amend its objections.

5. SLU objects to each Interrogatory to the extent it seeks information that is neither relevant to the subject matter of this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.

6. SLU objects to these Interrogatories on the ground that they are overly broad, unduly burdensome, vague and ambiguous, and seek information beyond the scope of this lawsuit because of overly broad definitions.

7. SLU objects to these Interrogatories to the extent that they are overly broad and unduly burdensome in that they request the identification of documents and things unrelated to the instant proceeding in both time and subject matter.

8. SLU further objects to these Interrogatories on the ground that each contains multiple subparts and that the numbering system utilized by Meyer does not accurately reflect the number of Interrogatories contained in Meyer's First Interrogatories. By specifically objecting to or answering Meyer's Interrogatories, SLU does not waive its right to object to these or any subsequently propounded interrogatories on the ground that they exceed the limitation as set forth in FRCP Rule 33 and the orders of the Court.

9. SLU also objects in that these Interrogatories are premature because discovery and investigation are ongoing, and SLU hereby reserves the right to amend its answers herewith in light of any additional information discovered in the course of this proceeding.

10. SLU expressly reserves the right to object to further discovery and to the subject matter of such request and to the introduction into evidence of any document, thing, information or portion thereof.

INTERROGATORIES

1. Please provide the name and address of the person or persons answering these interrogatories, including all persons who provided information used in answering these interrogatories.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information. SLU further objects to the extent that this Interrogatory seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to

and without waiving the foregoing objections, SLU states that Kenneth E. Fleischmann, Senior Associate General Counsel for SLU, answered these Interrogatories and that Louis C. Galli, Jr., Assistant General Counsel for SLU, provided information used in answering these Interrogatories.

2. As to the alleged infringement, state the date and circumstance under which SLU first learned of the Articles of Incorporation and identify the person with knowledge of such circumstance.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome. SLU further objects to the extent that this Interrogatory seeks information protected by the attorney-client privilege and/or work product doctrine. SLU further objects that this Interrogatory is vague and ambiguous in its use of the phrase “[a]s to the alleged infringement,” without further specification. Subject to and without waiving the foregoing objections, SLU states that Louis C. Galli, Jr., Assistant General Counsel, “first learned of the Articles of Incorporation” in or about May of 2007 during a routine, unrelated, electronic search.

3. Identify all persons with knowledge of the Articles of Incorporation, including but not limited to those persons with knowledge of the Article of Incorporation’s:

- a. Formation;
- b. Existence;
- c. Dissolution or Termination.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects that the term “knowledge” is vague and ambiguous and subject to multiple interpretations as used herein. SLU further objects that this Interrogatory is nonsensical in that, based upon Defendant’s definitions, it seeks identification of every person with knowledge of the “formation; existence; dissolution or termination” of certain paperwork submitted by Meyer to the Missouri Secretary of State, and SLU has no knowledge of the paperwork being formed or dissolved. SLU further objects on the ground that this Interrogatory seeks irrelevant and privileged information in that SLU’s knowledge of the Articles of Incorporation arises out of SLU’s investigation related to this litigation and is limited to that information it has learned through discovery in this case. Defendant has conceded that SLU had no knowledge of the formation of the non-profit corporation. To the extent Defendant Avis Meyer has independent and superior information regarding persons with knowledge of the Articles of Incorporation, he has not been forthcoming with that information and has accordingly limited SLU’s knowledge of such. SLU further objects that this Interrogatory seeks information not in the possession, custody or control of SLU in that Defendant Meyer has caused to be publicly posted on the website of the Secretary of State the Articles of Incorporation such that any person who has accessed the website may have the knowledge referenced in this Interrogatory. SLU has no way of identifying those persons. Subject to and without waiving the foregoing objections, SLU states that Louis C. Galli, Jr. first identified for SLU the existence of the Articles of Incorporation and all subsequent knowledge gained by SLU regarding the Articles of Incorporation is protected by attorney-client and work product privileges. In addition, Avis Meyer, Diana Benanti, and those persons identified by Avis Meyer and Diana Benanti in their

respective depositions have knowledge of the Articles of Incorporation. Additional persons with knowledge may be identified in documents to be produced.

4. Identify all persons with whom you have communicated regarding the Articles of Incorporation, including but not limited to those persons with knowledge of the Article of Incorporation's:

- a. Formation;
- b. Existence;
- c. Dissolution or Termination.

ANSWER: SLU restates and incorporates its General Objections. SLU additionally incorporates herein by reference its objections and response to Interrogatory No. 3 above. Subject to and without waiving the foregoing objections, SLU states that SLU has communicated with Avis Meyer and Diana Benanti regarding the Articles of Incorporation, and that additional persons with whom SLU has communicated regarding the Articles of Incorporation may be identified in documents to be produced.

5. State whether SLU obtained any advice of counsel or opinion of counsel as to potential infringement or violation of any rights of SLU, and if so, state for each such opinion or advice of counsel: who rendered it and the date of the opinion or advice was rendered; and identify all documents that show, discuss, or relate to the opinion or advice.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome in that it is not limited to the subject matter of this litigation. SLU further objects to the extent that this

Interrogatory seeks information protected by the attorney-client privilege and/or work product doctrine.

6. Indicate all acts of MEYER which SLU contends constitute an act of trademark infringement by MEYER.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the ground that this Interrogatory calls for a legal conclusion. SLU further objects on the ground that investigation and discovery are ongoing. Namely, to the extent Meyer has exclusive and superior knowledge of his own acts and has not been forthcoming in discovery with regard to those acts or has destroyed evidence of his conduct, SLU cannot at this time identify each and every act of Meyer that constitutes an act of trademark infringement. Subject to and without waiving the foregoing objections, SLU states that the following acts, when considered in conjunction with the strength of SLU's intellectual property rights, the fact that Meyer incorporated SLU's intellectual property in virtually identical form to, among other things, compete directly with SLU's own campus newspaper, and the fact that Meyer had the specific intent to lead the public to believe that the newly created newspaper was in fact that same newspaper that had been published by SLU for many decades, constitute trademark infringement:

- (1) Meyer improperly registered a non-profit corporation which incorporates SLU's valuable intellectual property with the intent to trade off the good will of Saint Louis University and its student newspaper;

(2) Meyer used SLU's valuable intellectual property for purposes of raising funds and leasing space to publish a newspaper to be distributed to the Saint Louis University community;

(3) Meyer advertised the non-profit corporation's operations as publishing a student newspaper that would be distributed to and among the Saint Louis University community in competition with any campus paper published by Saint Louis University;

(4) Meyer placed in the public record documents which give the impression that Saint Louis University was affiliated with, approved of, or sponsored the dissolution of the non-profit corporation, giving the false and confusing impression that SLU had abandoned its rights; and

(5) Other acts not yet revealed by Avis Meyer or for which evidence has been destroyed.

7. Set forth all categories and amounts of damages specifying the documents or other evidentiary materials upon which such damages are based or bearing on the nature and extent of such damages and indicate how such damages were calculated.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the ground that investigation and discovery are ongoing. Subject to and without waiving the foregoing objections, SLU states that it believes it may have suffered damage to the value of its intellectual property in an amount unknown at this time due to the confusing and deceptive manner in which Meyer created, used and dissolved the wrongful non-profit corporation. SLU additionally believes it may have suffered damage to its reputation and ability to obtain and retain students and faculty due to Meyer's wrongful use of SLU's benevolent name and

intellectual property and unfair competition. SLU has additionally incurred attorneys' fees which it will seek to recover, along with interest and costs.

8. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER were willful.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome. SLU further objects on the ground that this Interrogatory calls for a legal conclusion. Subject to and without waiving the foregoing objections, SLU states that the depositions of Avis Meyer and Diana Benanti are responsive to this interrogatory. In addition, investigation has revealed that Meyer was aware prior to registration and use of the non-profit corporation that his actions might be improper. Rather than inform SLU of his intent to "own" rights in the name of the paper that SLU had been publishing for many decades, prior to registration of the non-profit corporation Meyer deviously proposed an unrelated hypothetical in an attempt to get tacit approval (unbeknownst to SLU) in the event he was caught misusing SLU's intellectual property. Meyer then made specific efforts to keep the fact of his actions secret. Meyer additionally failed to dissolve the wrongfully created and used entity when the students accepted the new Charter proffered by the University and later intentionally dissolved the non-profit corporation in a confusing manner in order to diminish the value of SLU's intellectual property rights, potentially hamper its ability to protect its intellectual property in the future, and apparently in an attempt cover up his wrongful acts. Meyer additionally failed to respond to SLU's request for assurances as to the extent of Meyer's use and/or future use of SLU's intellectual property. Meyer also intentionally frustrated SLU's ability to investigate the use of its intellectual property by

misrepresenting to the press and under oath his claimed creation and delivery of correspondence to counsel for SLU regarding the requested assurances. The full extent of Meyer's willful conduct may not be discoverable due to Meyer's destruction of evidence and failure to otherwise comply with his discovery obligations, and SLU therefore specifically reserves the right to supplement this response if and when additional information becomes available.

9. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER were willful and deliberate, designed especially to trade upon alleged goodwill associated with SLU.

ANSWER: SLU restates and incorporates its General Objections. SLU additionally incorporates herein by reference its responses to Interrogatory Nos. 6 and 8.

10. Identify all facts that you contend support your allegation that the alleged wrongdoings by MEYER result in SLU suffering and continuing to suffer irreparable harm.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the ground that this Interrogatory calls for a legal conclusion. Subject to and without waiving the foregoing objections, SLU states that Meyer's actions may leave SLU open to attacks on its intellectual property that SLU may not be able to fully defend absent an injunction or order setting forth the wrongful nature of Meyer's conduct.

11. Provide the name, employer, title, business and home addresses and telephone numbers for each person with operational or maintenance responsibility for SLU's computer system(s), including, but not limited to, the person(s) who maintain the hardware on the

system(s); the person(s) responsible for installing software on the system(s); the person(s) responsible for the day-to-day operation of the system(s); the person(s) responsible for making backups or archiving files and data on the system(s); and the person(s) who can provide any passwords that may be necessary to access the appropriate computer system(s) or files.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information. Subject to and without waiving the foregoing objections, SLU states that Tim L. Brooks is the head of SLU's IT Department and has operational or maintenance responsibility for SLU's computer systems.

12. If not the same person(s) as identified in your answer to the immediately preceding interrogatory, identify by job title, job description, and business address and telephone number, the person(s) employed by SLU who is/are the most knowledgeable about the policies, procedures and actual practices for retention and destruction of documents at SLU.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information. SLU further objects to the phrase "retention and destruction of documents" in that the phrase is vague, ambiguous and subject to multiple interpretation. Subject to and without waiving the foregoing objections, SLU states that at this time, Tim L. Brooks is likely the most knowledgeable about such policies, procedures and actual practices at SLU, to the extent the interrogatory is understood.

13. Describe all efforts and procedures taken by SLU for this litigation to gather and secure documents, including, but not limited to, electronically generated or stored word processing files, spreadsheets or other electronic documents, electronic mail, and backup copies of information that may be relevant to the facts of this case. Describe the manner in which the notice of such efforts or procedures was communicated to SLU's employees.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information. SLU further objects to the extent that this Interrogatory seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to and without waiving the foregoing objections, SLU undertook a litigation hold and notified the relevant persons of such hold.

14. Describe all record retention and destruction policies and procedures followed by SLU including, but not limited to, the date the policy was adopted; the types of documents covered and the respective retention periods; the frequency of document destruction; whether any record is kept or what documents were destroyed, the manner and frequency with which the policy is communicated to SLU's employees; and the identity of all employees with responsibility for implementing and executing the policy.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information

15. Identify any data that has been deleted, physically destroyed, discarded, damaged (physically or logically), or overwritten, whether pursuant to a document retention policy or otherwise, since the commencement of this litigation. Specifically identify those documents that relate to or reference the subject matter of this litigation.

ANSWER: SLU restates and incorporates its General Objections. SLU further objects on the grounds that this Interrogatory is overly broad and unduly burdensome and seeks irrelevant information in that it is not limited in time or subject matter with regard to this litigation. Subject to the foregoing objections, SLU is not aware of any individual deleting, destroying, discarding, damaging, or overwriting any documents related to this litigation except Defendant Meyer.

16. For each witness who may be used by you at trial to present evidence under Federal Rules of Evidence 702, 703, or 705 provide all information described in or required by Rule 26(a)(2) of the Federal Rules of Civil Procedure.

ANSWER: No such witnesses have been identified at this time.

VERIFICATION

Kenneth E. Fleischmann, being first duly sworn, states as follows:

That I have read the foregoing responses and knows the contents thereof; that said responses were prepared with the assistance and advice of counsel; that the responses set forth herein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these responses; that consequently, that SLU reserves the right to make any changes in the responses if it appears at any time that omissions or errors have been made therein or that more accurate or additional information is available; and subject to the limitations set forth herein, the said responses are true to the best of SLU's knowledge, information and belief.

Kenneth E. Fleischmann

Kenneth E. Fleischmann
Senior Associate General Counsel for
Saint Louis University

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

Subscribed and sworn to before me this 15th day of August, 2008.

Lynette J. Murphy

Notary Public

My commission expires: 6-29-2010



Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

By: 

Frank B. Janoski, #3480

Bridget Hoy, #109375

500 North Broadway, Suite 2000

St. Louis, Missouri 63102

Telephone: (314) 444-7600

Facsimile: (314) 241-6056

Attorneys for Plaintiff

SAINT LOUIS UNIVERSITY

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served by email and first class mail, postage prepaid, upon counsel of record this 18th day of August, 2008 addressed as follows:

Nelson D. Nolte
Scott A. Smith
Brian J. Gill
Polster, Lieder, Woodruff & Lucchesi, L.C.
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nnolte@patpro.com
bgill@patpro.com
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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SAINT LOUIS UNIVERSITY,)
a Missouri benevolent corporation,)
)
Plaintiff,)
)
AVIS MEYER,)
)
Defendant)

Case No. 4:07-cv-01733

**PLAINTIFF'S RESPONSES AND OBJECTIONS TO DEFENDANT'S FIRST
REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

COMES NOW Plaintiff Saint Louis University ("SLU") and for its responses and objections to Defendant's First Requests for Production of Documents states as follows:

PRELIMINARY STATEMENT

This response represents SLU's diligent and best effort to respond to discovery based on the investigation it has thus far been able to carry out in connection with this proceeding. Therefore, these responses are given without prejudice to SLU's right to produce evidence of any subsequently discovered facts, and to otherwise assert factual and legal contentions as additional facts are ascertained.

GENERAL OBJECTIONS

SLU objects to the First Set of Requests for Production of Documents and Things propounded by Avis Meyer ("Meyer") in their entirety, on the following grounds:

1. The "Definitions and Instructions" which Meyer has inserted into its First Set of Requests for Production of Documents and Things are overly broad and seek to expand the scope of discovery beyond that permitted by the Federal Rules of Civil Procedure.

2. SLU objects to each request to the extent it could be construed as encompassing communications or documents protected by any privilege, including but not limited to: (a) the attorney-client privilege; (b) the attorney work-product doctrine; or (c) any other privilege or protection afforded by law. SLU and its counsel hereby assert such privileges and immunities.

3. SLU objects to each request to the extent that the documents requested therein are not within SLU's possession, custody or control.

4. SLU objects to each request to the extent it is argumentative and/or calls upon Plaintiff to interpret legal theories or to draw legal conclusions. If Meyer subsequently asserts or prevails on an interpretation of any request which differs from that understood by SLU, SLU reserves the right to supplement and/or amend its objections.

5. SLU objects to each request to the extent it seeks documents which are neither relevant to the subject matter of this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence.

6. SLU objects to these requests to the extent that they are vague and ambiguous.

7. SLU objects to these requests to the extent that they are overly broad and unduly burdensome and that they request the identification of documents and things unrelated to the instant litigation in both time and subject matter.

8. SLU expressly reserves the right to object to further discovery and to the subject matter of such request and to the introduction into evidence of any document, thing, information or portion thereof.

REQUESTS

Request for Production No. 1:

All documents or communications concerning the Articles of Incorporation.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. SLU further objects to this Request to the extent it calls for information and documents protected by the attorney-client and work product privileges. Subject to the foregoing objections, SLU states that documents, to the extent they exist, will be produced at a mutually agreeable time and location.

Request for Production No. 2:

All documents or communications concerning this lawsuit, the disputes raised in this case, or any attempts to resolve this matter, other than privileged communications with your attorney.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. SLU further objects to this Request to the extent it calls for information and documents protected by the attorney-client and work product privileges. SLU further objects to this Request to the extent it seeks documents concerning settlement negotiations. Subject to the foregoing objections, SLU states that documents, to the extent they exist, will be produced at a mutually agreeable time and location.

Request for Production No. 3:

All documents and communications concerning SLU's policy of monitoring and/or enforcing SLU's intellectual property.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. SLU further objects to this Request to the extent it calls for information and documents protected by the attorney-client and work product privileges. Subject to the foregoing objections and to the extent the Request is understood, SLU states that no written policy exists; however, the Office of the General Counsel for Saint Louis University and Collegiate Licensing Corporation ("CLC") monitor and/or enforce SLU's intellectual property. Subject to the foregoing objections, SLU states that documents, to the extent they exist, will be produced at a mutually agreeable time and location.

Request for Production No. 4:

All documents and communications concerning damages claimed by SLU with regard to this lawsuit.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to this Request to the extent it calls for information and documents protected by the attorney-client and work product privileges. SLU further objects to the Request as overbroad and unduly burdensome. Subject to the foregoing objections, SLU states that documents, to the extent they exist, will be produced at a mutually agreeable time and location.

Request for Production No. 5:

All communications between you and any expert witness in this action.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. Subject to the foregoing objections, SLU states that no such witness has been identified at this time and no such documents exist.

Request for Production No. 6:

All agreements with any expert witness regarding this lawsuit.

RESPONSE: SLU restates and incorporates herein its General Objections. Subject to the foregoing objections, SLU states that no such witness has been identified at this time and no such documents exist.

Request for Production No. 7:

Organizational charts or other departmental overviews for all information technology or information services departments or divisions, or outsourced information technology services or temporary consultants.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome in that it seeks documents neither relevant to this proceeding nor likely to lead to the discovery of admissible evidence. Subject to the foregoing objections, SLU states that documents, to the extent they exist, will be produced at a mutually agreeable time and location.

Request for Production No. 8:

All documents referenced in your Fed. R. Civ. P. 26(a) Disclosures.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. Subject to the foregoing objections, SLU states that documents will be produced at a mutually agreeable time and location.

Request for Production No. 9:

All documents on which you intend to rely in support of your allegations and/or claims of this case.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. Subject to the foregoing objections, SLU states that a case management order has been entered regarding deadlines for trial exhibits, therefore, no such documents need to be produced at this time.

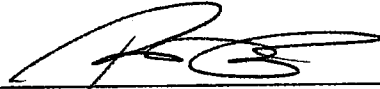
Request for Production No. 10:

All documents referred to, referenced or relied on answering the First Interrogatories to Plaintiff SLU.

RESPONSE: SLU restates and incorporates herein its General Objections. SLU further objects to the Request as overbroad and unduly burdensome. Subject to the foregoing objections, SLU states that documents will be produced at a mutually agreeable time and location.

Respectfully submitted,

LEWIS, RICE & FINGERSH, L.C.

By: 
Frank B. Janoski, #3480
Bridget Hoy, #109375

500 North Broadway, Suite 2000
St. Louis, Missouri 63102
Telephone: (314) 444-7600
Facsimile: (314) 241-6056

Attorneys for Plaintiff
SAINT LOUIS UNIVERSITY

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served by email and first class mail, postage prepaid, upon counsel of record this 18th day of August, 2008 addressed as follows:

Nelson D. Nolte
Scott A. Smith
Brian J. Gill
Polster, Lieder, Woodruff & Lucchesi, L.C.
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