

Exhibit A

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THE RESULTS OF A
FALSE ENDORSEMENT SURVEY
CONCERNING
“THE UNOFFICIAL HARRY POTTER LEXICON”

JANUARY, 2008

I. INTRODUCTION

I, Myron J. Helfgott, am currently employed as a consultant to attorneys in the area of survey research.

I design and conduct surveys relevant to trademark litigation, concerning such matters as likelihood of confusion, secondary meaning, dilution, trademark identification, false advertising and false endorsement.

A description of my qualifications follows.

II. PROFESSIONAL AND EDUCATIONAL BACKGROUND

I received a B.A. degree in Psychology from Brooklyn College in 1948, a M.A. degree in Social Psychology from New York University in 1949, and a Ph.D. degree in Social Psychology from the University of Michigan in 1952.

I was also a member of the staff of the Survey Research Center of the University of Michigan in 1952, where I was an Assistant Research Study Director. Between 1952 and 1954, I was a Research Study Director at Columbia University's Bureau of Applied Social Research, and a Lecturer in Social Psychology at Columbia University.

From 1954 to 1957, I was employed by two large New York City advertising agencies. From 1954 to 1955, I was a Senior Research Study Director in the Research department of Young & Rubicam, Inc. From 1955 to 1957, I was Director of the Research Department of Ogilvy & Mather, Inc.

From 1957 to 1962, I was Vice President of Marketing and Research of Lippincott & Margulies, Inc., which was at the time America's largest Industrial Design firm, specializing in the designs of trademarks, packages, and corporate identification. I was also President of three affiliated corporations: The Package Research Institute, which did research on trademarks and package designs; Names, Inc., which developed and evaluated names for new products and companies; and Image Research, Inc., which did research to develop brand and company image marketing strategy. During this period I was also Chairman of the Package Research Conference.

From 1962 to 1982, I was founder and Chief Executive of Helfgott and Partners, Inc. (Later Helfgott, Towne & Silverstein, Inc.), a New York City advertising agency which offered services in Advertising, Marketing, Trademark and Package Design, and Marketing and Consumer Research.

From 1982 to the present, I have been employed as a consultant to attorneys who specialize in litigation involving trademarks, names and symbols, package and products design, and advertising claims. My services include providing survey research information, usually concerning the measurement of secondary meaning, the likelihood of confusion, dilution, trademark identification, as well as expert witness testimony.

I have also been employed to evaluate surveys done by other practitioners as to the correctness of their methodology and the acceptability of their findings as legal evidence.

Over the past 47 years, I have personally conducted hundreds of survey research assignments and supervised thousands of others. The clients for whom I have performed these services include over 300 of the 500 largest U.S. corporations, as per Fortune Magazine's list.

Over the years, I have been a member of the following professional organizations: Market Research Council, Copy Research Council, American Marketing Association, American Psychological Association, Society for the Psychological Study of Social Issues, American Association for Public Opinion Research, and the Advertising Research Foundation.

I have spoken extensively in the field of survey research, and have previously testified before the International Trade Commission and in Federal courts as an expert on various aspects of survey research as they apply to trademark litigation.

II. BACKGROUND OF THE PRESENT ASSIGNMENT

I have been contacted by an attorney from O'Melveny & Myers, LLP who represent J.K. Rowling, the author of the famous *Harry Potter* books, and Warner Brothers Entertainment, Inc., which own the trademark of *Harry Potter* and other fictional characters in the book series.

In that conversation, I was asked to review the complaint filed by Warner Brothers Entertainment, Inc. and J.K. Rowling, the plaintiffs, citing RDR Books (and others) as defendants.

The Plaintiffs allege that RDR Books plans to publish an unauthorized book entitled "*The Unofficial Harry Potter Lexicon*", and that

"The infringing book is misleading to consumers and will be marketed in a way that implies endorsement by Plaintiffs and will likely cause confusion."

I was asked to design and conduct a survey of false endorsement which would provide factual information relevant to this issue. I was specifically asked to address the presence of a quotation by J.K. Rowling. This report describes the methodology and findings of that survey.

IV. THE OBJECTIVE OF THE SURVEY

This survey was designed to determine whether or not, and if so, to what degree, a statement made by J.K. Rowling, which appears on the cover of *The Unofficial Harry Potter Lexicon*, is interpreted by *Harry Potter* readers as constituting endorsement or approval by Ms. Rowling of that book.

V. THE DESIGN OF THE SURVEY

The survey I designed was based on personal interviews with 200 respondents conducted in shopping mall-based research facilities in ten metropolitan areas in the continental United States.

GENDER AND AGE REQUIREMENTS

To qualify for inclusion in the sample, the prospective respondents had to have read one or more *Harry Potter* books and had to conform to certain previously designed age and gender quotas. The quotas provide for an equal number of male and female respondents and provide that, within each gender group, half be younger (defined as being between 15 and 29 years old) and half be older (30 years of age and over).

These gender and age quotas were determined by a *Harry Potter* reader incidence count conducted prior to the survey.

VI. THE CITIES USED IN THE RESEARCH

Shopping mall-based research facilities in the metropolitan areas of ten cities were selected as interview sites. They are:

Atlanta	Los Angeles
Chicago	Minneapolis
Dallas	New York
Houston	Philadelphia
Indianapolis	San Francisco

In each city, a quota of 20 interviews was assigned and completed. These were equally divided between the two gender groups, and within each group, equally divided between younger and older respondents.

VII. THE DESIGN OF THE INTERVIEW

Interviewers in each mall were instructed to select potential respondents from among the mall patrons. To qualify, the respondent had to be 15 years of age or older, and had to have read one or more *Harry Potter* books.

Additional requirements, investigated in a screening interview, were that the person live in the metropolitan area of the mall, that no-one in their household work in the book publishing industry, that the person does not work in the mall, and that the person has not been interviewed in that mall in the last three months.

After the questioning, the respondent was escorted to the research facility in the mall where the main interview was conducted.

VIII. THE MAIN INTERVIEW

In this part of the interview, respondents were handed a color-copy of a book cover, and asked to look it over as they would if they were seriously considering buying the book.

After that, the respondent was directed to the J.K. Rowling quotation on the back cover and asked to read the lines aloud.

J.K. Rowling on the Harry Potter *Lexicon* website -
“This is such a great site that I have been known to sneak into an Internet café while out writing and check for fact...A website for the dangerously obsessive; my natural home.”

The respondent was then asked some questions about J.K. Rowling and the quotation*. They are:

- Q10. *Why do you think that quotation was put on the cover of this book? What message or messages does it convey to you?*
- Q11. *What, if anything, does this quotation say or suggest about J.K. Rowling and this Lexicon book?*
- Q12a. *Would you say that this quotation from J.K. Rowling does or does not indicate or imply an endorsement or approval of this Lexicon book?*
- Q12b. *Why would you say that?*

The complete questionnaire appears in Appendix A of this report.

*Questions 10, 11, and 12a and 12b all deal with the quotation, and starting with question 10, are arranged in a “funnel” design - the broadest, open-ended question first, followed by questions of increasing restriction and focus.

IX. CRITERIA FOR SCORING AN INTERVIEW'S RESPONSES AS INDICATING FALSE ENDORSEMENT

In order to establish a measurement of false endorsement, each interview was read and considered in its entirety, and given a single score as to whether or not the responses in that interview indicate false endorsement.

An interview ultimately was considered as indicating false endorsement if all of the following conditions were met:

- The respondent correctly identified J.K. Rowling,
- The respondent, in answer to Question 12, said the quotation indicated or implied endorsement or approval,
- The respondent gave credible reasons for the Question 12a responses either in Question 12b or elsewhere in the interview,
- The respondents answers did not indicate any misunderstanding of the questions or any other type of confusion*.

If all of these conditions were present, the interview was scored as indicating false endorsement.**

In effect, this process acts as a control against guessing or the arbitrary selection of an alternative offered in the questions wording for no particular reason.

*Other types of confusion include such responses as thinking that J.K. Rowling wrote the Lexicon book and is endorsing her own work or that the Lexicon Website was a site that sold Harry Potter books -- although these types of answers arguably still evidence some confusion over the relationship between the book and the website.

If a respondent mentioned that the disclaimer information on the cover contradicts their impression of approval or endorsement of the book by J.K. Rowling, that interview was **not counted as evidence of false endorsement.

X. THE RESULTS OF THE SURVEY

The survey results reveal that a significant portion of *Harry Potter* readers say that the presence of the J.K. Rowling quotation on the cover of the *Harry Potter Lexicon* book, indicate or implies endorsement or approval of the *Harry Potter Lexicon* book.

Starting with a figure of **55%** (those who gave affirmative answers to Question 12a, which asked if the respondent believed that the quotation indicates or implies endorsement of the book), and applying the criteria for false endorsement discussed in Section IX, **the resultant figure of 38% emerges as the false endorsement score.**

**TABULATED RESULTS CONCERNING
FALSE ENDORSEMENT**

ANSWERS TO QUESTION 12

“Would you say that this quotation from J.K. Rowling does or does not indicate or imply an endorsement or approval of this lexicon book?”

	<u>TOTAL SAMPLE</u>	
	<u>Number</u>	<u>Percent</u>
	Total	(200)
		(100%)
Yes, it does imply endorsement or approval	<u>110</u>	<u>55%</u>
Indicates false endorsement* (as per criteria)	76	<u>38%</u>
Does <u>not</u> indicate false endorsement	34	17%
No, it does not	74	37%
Don't know	15	7.5%
No answer	1	0.5%

*Verbatim reasons given for these responses appear in Appendix B of this report.

It is thought that because both the enthusiastically reviewed website, and the book, bear the same title, "*Harry Potter Lexicon*", the praise of the website applies, in readers minds, to the book as well.

XI. CONCLUSION

The results of this survey reveal that a significant portion of *Harry Potter* readers - **38%** - consider the presence of the J.K. Rowling quotation concerning the *Harry Potter Lexicon* website on the cover of the *Unofficial Harry Potter Lexicon* book to indicate or imply an endorsement or approval of the lexicon book.

This finding supports the conclusion of false endorsement.

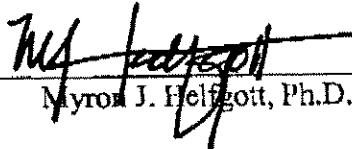
XII. CRITERIA

In designing these surveys I was mindful of the standards for judging the acceptability of survey findings listed in the Manual for Complex Litigation Third (1995).

These standards require that:

- (1) *the universe is properly defined;*
- (2) *a representative sample of that universe is selected;*
- (3) *the questions to be asked of the interviewees are framed in a clear, precise and non-leading manner;*
- (4) *sound interview procedures are followed by competent interviewers who have no knowledge of the litigation or the purpose for which the survey is conducted;*
- (5) *that data gathered is accurately reported;*
- (6) *the data is analyzed in accordance with accepted statistical principles; and,*
- (7) *the objectivity of the entire process is assured.*

I believe that the survey that is reported upon in this document meet all of the requirements for acceptability as legal evidence described above.


Myron J. Helfgott, Ph.D.

APPENDIX A - QUESTIONNAIRE

*The Definitive Guide
to All Things Potter*

The most trusted reference source on earth about the wonderful world of Harry Potter, Steve Vander Ark's unofficial encyclopedia will satisfy the curiosity of the most ardent Potter fan. A reader's guide, gazetteer, bestiary, handbook and tour of the Potter universe, this comprehensive work is perfect for readers, researchers, students, librarians and academic scholars alike. The *Harry Potter Lexicon* is the first reference work that covers all seven books, including *Harry Potter* and the *Deathly Hallows*, and draws from more than 40 in-depth media interviews.

Steve Vander Ark, a librarian and creator of the *Harry Potter Lexicon* website and book, frequently keynotes academic conferences on the *Harry Potter* books. He has been interviewed by the *New York Times*, on the BBC, the *Today Show* and A & E. A lengthy interview with Steve Vander Ark is included on the DVD of *Harry Potter* and the *Order of the Phoenix*.

WINNER OF J.K. ROWLING'S FAN SITE AWARD

J.K. Rowling on the *Harry Potter Lexicon* website—

"This is such a great site that I have been known to sneak into an Internet café while out writing and check a fact... A website for the dangerously obsessive, my natural home."

Harry Potter and the names of all fictitious people and places are trademarks of Warner Bros. This book is not written, prepared, approved or licensed by Warner Bros., Scholastic Books or J.K. Rowling, nor is the author, his staff members, www.HP-Lexicon.org or the publisher in any way affiliated with Warner Bros., Scholastic Books, J.K. Rowling or any other person or company claiming an interest in the *Harry Potter* works.

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RDR
Books



ISBN 978-1-57143-174-5

Steve Vander Ark

The Unofficial Harry Potter Lexicon



RDR
Books

Steve Vander Ark
Webmaster of HP-Lexicon.org

The Unofficial
Harry Potter[®]
Lexicon

The most complete and amazing reference
to the magical world of Harry Potter

Harry Potter[®] and the names of all fictitious people and places are trademarks of Warner Bros. This book is not written, prepared, approved or licensed by Warner Bros., Scholastic Books or J.K. Rowling, nor is the author, his staff members, www.HP-Lexicon.org or the publisher in any way affiliated with Warner Bros., Scholastic Books, J.K. Rowling or any other person or company claiming an interest in the *Harry Potter* works.

BOOK COVER SURVEY
Section A - Screening Questionnaire

APPROACH MEN AND WOMEN WHO APPEAR TO BE 15 YEARS OF AGE, OR OLDER.
CHECK YOUR AGE QUOTA SHEET.

Hello. I am _____ from _____ Marketing Research and I am doing a survey in this mall today with people like yourself. If you qualify, I'd like to ask you to be a part of it. It only takes a few minutes.

First, I'll ask you a few qualifying questions.

1a. How old are you?

- Under 15 → TERMINATE
- 15 – 29 → CHECK QUOTA
- 30 and over → CHECK QUOTA

1b. Record Gender → CHECK QUOTAS

- Female
- Male

2. Do you live in this area, or are you just visiting?

- Live here
- Just visiting → TERMINATE

3. Do you work in this mall?

- Yes → TERMINATE
- No

4. Have you been interviewed in this mall in the past 3 months?

- Yes → TERMINATE
- No

5. Do you or any members of your household work in the field of publishing or selling books?

- Yes → TERMINATE
- No

6. This survey is about a fictional character in books and movies named *Harry Potter*. Have you ever heard of him?

- Yes
- No → TERMINATE

7. Have you ever seen any films about *Harry Potter*?

- Yes
- No

8a. Have you ever read any books in the *Harry Potter* series?

- Yes
- No → TERMINATE

8b. How many *Harry Potter* books have you read, would you say? _____

Don't remember

9a. Do you ever wear glasses or contacts for reading?

Yes → ASK Question 9b

No → INVITE TO MAIN INTERVIEW

9b. Do you have them with you?

Yes INVITE TO MAIN INTERVIEW

No → TERMINATE

Good. You qualify to be in our survey. It will only take a few minutes of your time. If you take part we will give you \$5 at the end of the survey to thank you.

Would you like to be in our survey?

Yes → ESCORT TO RESEARCH CENTER

No → TERMINATE

FOR EACH COMPLETED MAIN INTERVIEW ATTACH SCREENING QUESTIONNAIRE TO FRONT OF MAIN INTERVIEW.

Section B - Main Interview

I will show you a book cover, - that is, the outside cover for a book soon to be published. The book is a Harry Potter Lexicon. A lexicon is a reference source that contains all kinds of information about its subject – in this case, the world of Harry Potter.

Please look over this book cover - both the front and back covers – as you would if you were seriously considering buying the book. After you have done that I'll ask you a few questions.

INTERVIEWER: PRESENT EXHIBIT AND ALLOW SUFFICIENT TIME TO READ IT. WHEN RESPONDENT INDICATES READINESS SAY:

If, in answer to any question you don't know or don't have an opinion one way or the other, please say so.

Now, I'd like to direct your attention to the quotation by J. K. Rowling on the back cover.

(INTERVIEWER: POINT TO THE FOUR LINES BEGINNING WITH THE LINE "*J. K. ROWLING*". . . AND ENDING WITH THE WORDS "*MY NATURAL HOME*")

Please read that section aloud to me.

9. Do you know who J. K. Rowling is?
[] Yes → Who is J.K. Rowling? _____
[] No

10. Why do you think that quotation was put on the cover of this book? What message or messages does it convey to you?

11. What, if anything, does this quotation say or suggest about J. K. Rowling and this Lexicon book?

- 12a. Would you say that this quotation from J. K. Rowling does or does not indicate or

imply an endorsement or approval of this lexicon book?

- Yes, it does → GO TO QUESTION 12b
- No, it does not → SKIP TO SECTION C
- Don't know / No opinion → SKIP TO SECTION C

12b. Why do you say that?

ALL GO TO SECTION C

Section C - Interview Information

Thank you for being part of our survey. Now I would like to ask you a few closing questions.

What is your full name? _____

And Phone number (_____) _____

Please read and sign this statement (HAND TO RESPONDENT)

"I certify that I have participated in this survey and received a \$5 cash gift."

One last thing, my supervisor may be calling you to certify that I actually did this interview and gave you the cash gift. If that happens, please cooperate with her. Thank you.

Interviewer initials _____ Date _____

Mall & city of interview _____

APPENDIX B - RESEARCH RESULTS

- VERBATIM COMMENTS OF
ENDORSEMENT/APPROVAL
RESPONSES

HARRY POTTER VERBATIMS

Endorsement or Approval – Book Mentions (Net mentions 44)

<u>ID#</u>	<u>Quest.</u>	<u>Verbatim</u>
1	12b	Yes. Because it implies that the information is approved so the book would be approved also.
5	12b	Yes. Because not only does she read it, she consults it occasionally.
11	10 11	J.K. Rowling will go onto the web site for facts, so it must be reliable. I think from this quote that she would support the book.
14	12b	Yes. Because the way she says the quote.
17	12b	Yes. It implies approval. She is giving a stamp of approval by saying it is a web site for the obsessive and she checks it out herself.
21	11 12b	To buy the book. Yes. Because they put it on the cover and J.K. Rowling even uses it.
22	11	J.K. Rowling approves the book and it isn't an imitation.
23	10 11 12b	To endorse the book. She's endorsing the book. Yes. It has her name and a dash then a quote in quotation.
32	12b	Yes. Because he is telling you that he is checking the site and thinks it is a great book.
43	10 11	J.K. Rowling recommends the web site. People will buy the book because she is endorsing it. Information from the web site is in the book and she endorses it.
44	10 11	Draw attention to the book because she is the author. She likes the book.
45	11	That she endorses it.
55	10 11	How authentic and detailed the book is. She approves of the book.
58	11 12b	That she thinks she would go there to check that facts are accurate, giving her mark of approval. Yes. She says she would use it herself.

Continued from previous page

62	10	It's trying to influence me to read the book by giving someone else's opinion.
	12b	Yes. Because she is talking very positive about it, sneaking into the cafe to read her own stuff.
70	10	That it is a great site of Harry Potter. Like telling me how (good) the book is.
	12b	Yes. He is trying to tell me in his words how great the book is.
71	12b	Yes. Because it makes it seem like the book may have facts about Harry Potter that even the author may have not known or remembered.
72	12b	Yes. She wouldn't have taken the time to give her thoughts on it (if she didn't approve).
76	11	It suggests that she is glad that such a thing has come out.
	12b	Yes. Just because for someone (else) to write a book about their own book and for her to comment that it's such a good thing says a lot. And yes, she does approve.
80	10	Even the author (of Harry Potter) is positive about this book.
	12b	Yes. Because if she approves this book, people are more likely to purchase this book.
92	11	That it's a great book.
	12b	Yes. Because of its greatness and (it) gives interesting facts.
93	10	It's just a support for the Lexicon reference.
97	11	I guess it looks like she is endorsing it.
	12b	Yes. Because she uses it herself.
108	12b	Yes. Because it shows that she likes the book.
111	11	By using it herself she brings confirmation to the contents.
	12b	Yes. She uses it herself and she's the author.
113	11	If she uses the web site she'll probably read or use the book.
	12b	Yes, She would probably read or use the book if she uses his web site.
114	12b	Yes. Since the "Lexicon" web site is a winner of the J.K. Rowling fan site award, I would think she would approve this book.
121	12b	Yes. Don't know. It just does (imply endorsement). Can't really say why.
126	10	To help sell it and to show the writer of Harry Potter likes the book.
	11	That she really likes it and wants to read it.

Continued from previous page

127	12b	Yes. Because she is letting it be written. Because if she wasn't (letting it be
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- written) she could sue.
- 128 12b Yes. Just kinda catchy how she puts the words into the quotes.
- 129 11 It says that J.K. Rowling likes it and the book is probably good.
12b Yes. Because she says that she likes it.
- 130 12b Yes. Because it just does. She says she goes and uses it all the time.
- 131 12b Yes. It implies that this book is accurate and complete.
- 137 12b Yes. I guess with quotations on there she said it. So she had to give her approval for that.
- 140 10 Because it is an endorsement by the author. That it is endorsed by the author.
11 That she approves of it.
12b Yes. Because it is an endorsement of the author in this book.
- 145 12b Yes. If she looks at it she must support it.
- 159 10 That she really likes the web site and trusts it.
11 That it is accurate and for the fans.
12b Yes. Because it is important to her and the fans.
- 170 11 She would endorse it.
12b Yes. Because she uses the site and validating that it (the book) is credible.
- 182 12b Yes. She says she likes it and it is for the dangerously obsessive.
- 183 10 To attract readers of Harry Potter. Tells me if I want to look up anything about Harry Potter this is the place to go.
12b Yes. The book came from a web site and she says it is a great site.
- 186 10 To get people to read it.
12b Yes. Because (otherwise) they wouldn't have mentioned it. Subliminal endorsement.
- 193 11 That J.K. Rowling approved of it (the Lexicon book).
- 200 11 That J.K. Rowling approves of the book and wants people to check it out.
12b Yes. Because she wrote that on the back of the book.

Endorsement or Approval – Site Mentions
(Net mentions 32)

<u>ID#</u>	<u>Quest.</u>	<u>Verbatim</u>
12	12b	Yes. Because she says it is a great site and that it is “obsessive” so she is giving it an ok to the Harry Potter fans.
13	12b	Yes. Because she says she goes on it herself and it is informative. You can’t fake that.
15	12b	Yes. In a way she is endorsing it because she uses it on line.
18	12b	She goes out of her way to look at the web site and feel comfortable doing it.
26	12b	Yes. Because it tells you right here that it is a fan web site.
30	12b	Yes. It’s a great site to check.
35	11 12b	That she and the site are one and the same. Yes. Even the author uses it.
36	11 12b	That it’s so factual that the author of the book even uses it. Yes. It tells you right below that it is a J.K. Rowling approved site.
38	12b	Yes. Because it is right here, Harry Potter – a web site. That is an endorsement.
50	10 11	This is basically that the web site is a good web site for someone to go to who is really interested in Potter. That she feels real good about it. It is a real accomplishment.
56	11 12b	She likes the web site. Yes. She says it is a great web site, and sneaks into internet cafes to look.
61	12b	Yes. Because that it says that it is a great site and the site is for the obsessive.
63	11 12b	It suggests that it is a very useful resource. Yes. The author recommends the web site personally for readers.
65	11 12b	It suggests that it is an excellent source of information that even the author uses this. Yes. Because if the author uses it, other people would want to use it.

Continued from previous page

<u>ID#</u>	<u>Quest.</u>	<u>Verbatim</u>
66	11 12b	Says it is a great site. Yes. It tells you about this web site.
67	11 12b	Says that she uses it. Yes. Says it's her actual home.
74	12b	Because he was giving an example of how he sneaks off (and uses it).
83	11 12b	That she approves of it. Yes. Because of her quote that it's a great site.
85	12b	Yes. Because she said it's a great site.
96	12b	Yes. Because she says it's such a great site and that she uses it.
99	11 12b	That their web site is informative. Yes. Because he's quoting it and that it's such a great web site.
100	12b	Yes. Because he said that it's a great site in the quotation.
112	12b	Yes. Because she says she uses the web site.
123	12b	Yes. Because she says it's a great site.
125	12b	Yes. She's saying that it's a good site and she's putting it out there.
132	12b	Yes. Because it says it's a great site and it has someone sneaking onto it.
139	12b	Yes. If she is using it to check facts then it must be authoritative.
155	10 11 12b	Because it's a good site. That it is for the fans. Yes. The way she describes it.
165	12b	Yes. Because of the endorsement for the web site.
189	11 12b	That he approves it. Yes. Because he said that he frequently visits the web site.
191	11 12b	The web site is interesting and the book is for Harry Potter readers. Yes. She said the web site is "dangerously obsessive" and sounds like she approves.
194	12b	Yes. Because it's saying she's addicted to it and other people probably would be to.

APPENDIX C

CURRICULUM VITAE

PRIOR TESTIMONY

COMPENSATION

MYRON J. HELFGOTT, PH.D.
37 WEST 12TH STREET
NEW YORK, NY 10011
212-929-7215

From 1952 to the present, I have been employed as a professional in Survey Research, Marketing and Advertising. I have performed these surveys for over 300 of the top 500 U.S. Industrial Corporations, as per *Fortune Magazine's* List.

EXPERIENCE

- 1982 - Present Consultant to attorneys and supplier of survey research and expert witness testimony for litigation involving trademark names and symbols, package and product design, and advertising claims. Clients include: *Ideal Toy Company, Arrow Staple Guns, Sony, Columbia, Broadcasting System, Cooper Industries, Mars Candy Corp., Warner-Lambert, J. Crew Catalogues, Audi and Volkswagen Automobiles, Listerine Products, Atari, Inc., Selchow & Righter, Bristol-Myers Squibb, and SmithKline Beecham.*
- 1962 - 1982 Founder and Chief Executive of *Helfgott, Towne & Silverstein, Inc.*, a New York City Advertising Agency. Billing \$25,000,000 annually. Principle clients: *Ideal Toy Company, Airwick Industries, Canandaigua Wine Company.*
- 1957 - 1962 Vice President, *Lippincott & Margulies, Inc.*, a New York City Industrial Design Firm, and President of three affiliated research and marketing corporations: *Package Research Institute, Image Research, Inc.*, and *Names, Inc.*
- 1955 - 1957 Director of Research Department, *Ogilvy & Mather, Inc.*, a large advertising agency.
- 1954 - 1955 Senior Research Study Director, Research Department, *Young & Rubicam, Inc.*, another large advertising agency.
- 1952 - 1954 Lecturer in Social Psychology, *Columbia University* and Research Study Director, *Columbia University Bureau of Applied Social Research.*
- 1952 Assistant Research Study Director, *University of Michigan Survey Research Center.*

EDUCATION

- 1952 *University of Michigan* - Director of Philosophy Degree in Social Psychology.
- 1949 *New York University* - Master of Arts Degree in Social Psychology.
- 1948 *Brooklyn College* - Bachelor of Arts Degree in Psychology.

PRIOR TESTIMONY

I have provided sworn expert testimony in deposition or at trial in the following cases in the past five or more years:

a. Calvin Klein, Inc. v. Calvin Clothing Company, Consolidation Opp. Nos. 117112, 117113, 112484, 123007. TTAB.

b. Twentieth Century Fox Films Corporation v. Marvel Enterprises, Tribune Entertainment and Fireworks Television, (Civil Action No. 01CV3016[AGS]).

c. Minnesota Specialty Crops, Inc. v. Minnesota Wild Hockey Club, L.P. and NHL Enterprises, L.P., Court File No.: 00-CV-2317 JRT/RLE.

d. Bristol-Myers Squibb Company v. Rhone-Poulenc Rorer, Inc. (Taxol), Civil Action No. 95-8833 (RPP).

e. SmithKline Beecham (Relafen) v. Others, Nabumetone Patent Litigation, Civil Action No. 97-12416-RCL (U.S.D.C Mass 1999)

f. Nabisco, et. al. v. Warner-Lambert Co., 97 Civ. 4272 (CBM) (S.D.N.Y. 1997).

g. Hershey Foods Corp. and Homestead, Inc. et. al., v. Mars Incorporated, 1:CV-97-1719 (WWC) (M.D. Pa. 1997).

h. J & G Grant v. Wine Is Fine, Inc. d/b/a Preiss Imports, et. al., Civ. Act. 95-8165 WDI (BQRX).

i. Kal Kan Foods, Inc. v. Doca USA, C.V. 97-0139 LGB (CWx) (C.D. Calif., Western Div.).

j. Golden Bear International v. Bear U.S.A., Inc., 42 U.S.P.Q. 2d 1283, (N.D. Ga., Atlanta Div., 1996) (Civ. Act. No. 1:96-CV-0579-JTC).

k. Stanley Tools v. Arrow Staple Guns, 96 CIV 1998 (LAP) (S.D.N.Y. 1996)

l. Polaris Pool Systems, Inc. v. Letro Products, Inc., Civ. Act. 94-7747 (JMI) (C.D. Calif.).

m. SmithKline Beecham v. Mylan Pharmaceuticals, Inc., 94-CV-2847 (JP) (E.D. Pa.).

n. Danish Dairy Board v. Ministry of Commerce of the Republic of Cyprus, Cancellation No. 19,815 (TTAB) (Reg. No. 1,591,489).

o. Mars Candy Co. v. Cool Chocolates Candy Co., 92-Civ.-4353 (D.N.J., Trenton).

COMPENSATION

My compensation for work on this assignment is charged at that rate of \$500.00 per hour.