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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91234467
Party	Plaintiff Blue Ivy
Correspondence Address	Ryan E. Hatch Law Office of Ryan E. Hatch, P.C. 13323 W. Washington Blvd.Suite 100 Los Angeles, CA 90066 UNITED STATES ryan@ryane hatch.com
Submission	Request for Discovery Conference
Filer's Name	Ryan E. Hatch
Filer's e-mail	ryan@ryane hatch.com
Signature	/Ryan E. Hatch/
Date	05/17/2017
Attachments	2017.05.10 - Blue Ivy - Motion to Expedite Discovery.pdf(39024 bytes) 2017.05.10 - Blue Ivy - Declaration of Ryan E. Hatch (with exhibits).pdf(504228 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/883,293: BLUE IVY CARTER
Published in the Official Gazette of January 10, 2017 in all designated classes
(International Classes 3, 6, 9, 10, 12, 16, 18, 20, 21, 24, 26, 28, 35, and 41).

BLUE IVY,

Opposer,

v.

BGK TRADEMARK HOLDINGS, LLC,

Applicant.

Opposition No. 91234467

MOTION FOR LEAVE TO TAKE LIMITED EARLY DISCOVERY

Veronica Morales d/b/a Blue Ivy (“Blue Ivy” or “Opposer”) hereby moves for leave to serve limited early discovery on Jonathan Schwartz before he enters prison on July 11. Mr. Schwartz is listed as the Executive Vice President of Applicant BGK Trademark Holdings, LLC (“BGK” or “Applicant”), and signed Application Serial No. 86/883,293 (the “Application”) that is at issue in this proceeding.

REQUEST FOR TELEPHONE CONFERENCE

Time is of the essence in determining this motion, as Mr. Schwartz will report to prison on July 11, 2017. Opposer therefore requests a telephone conference to discuss this motion, which is not dispositive of any claims. *See* Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) § 502.06(a) (“The telephone conference procedure is particularly useful for resolving motions where time is of the essence, such as a motion to quash a notice of deposition, as well as numerous discovery motions.”)

BACKGROUND

Opposer Blue Ivy filed this opposition proceeding on May 10, 2017 asserting three grounds for opposition: (1) priority and likelihood of confusion; (2) no bona fide intent to use the mark in commerce; and (3) fraud on the USPTO. (Dkt. 1, the “Opposition.”) The latter two grounds for opposition are based in part on disparities between the declaration of Mr. Schwartz, and the public statements of Shawn Corey Carter (aka Jay Z) to Vanity Fair. (See Opposition, ¶¶ 18-26.)

The Trademark Trial and Appeal Board (“TTAB”) has entered a Notice of Institution providing that discovery opens on July 19, 2017. However, Mr. Schwartz was recently convicted of wire fraud and falsifying tax records, and was sentenced to a prison term of 72 months (6 years) beginning on July 11, 2017, to be served at a federal prison in Sheridan, Oregon. (Hatch Decl, Ex. A at 3.) Early discovery limited to Mr. Schwartz is therefore necessary to preserve relevant evidence, and to reduce the burden on the Court and the parties. Discovery is ready to proceed, since Opposer has already served its Initial Disclosures. (Hatch Decl., ¶ 3.)

The Federal Rules allow for early discovery “when authorized by stipulation or court order.” Fed. R. Civ. P. 26(d)(1). Opposer must make a motion because Applicant has not substantively responded to inquiries regarding whether it will stipulate to early discovery on Mr. Schwartz. (Hatch Decl., ¶¶ 5-8.)

LEGAL STANDARD

Courts generally apply a good cause (or reasonableness) standard for allowing expedited discovery under Rule 26(d)(1).¹ Good cause exists “where the need for

¹ See *Dorrah v. United States*, 282 F.R.D. 442, 445 (N.D. Iowa 2012) (noting that a

expedited discovery, in consideration of the administration of justice, outweighs the prejudice to the responding party.” *Apple*, 768 F. Supp. 2d at 1044. In determining whether there is good to expedite discovery, courts commonly consider five factors: “(1) whether a preliminary injunction is pending; (2) the breadth of the discovery requests; (3) the purpose for requesting the expedited discovery; (4) the burden on the defendants to comply with the requests; and (5) how far in advance of the typical discovery process the request was made.” *Id.*

ANALYSIS

There is good cause to allow limited expedited discovery on Mr. Schwartz, who will be incarcerated in prison eight days before discovery formally begins.

As an initial matter, discovery on Mr. Schwartz is relevant to Opposer’s second and third grounds for opposition, lack of bona fide intent and fraud on the USPTO. Mr. Schwartz signed the Application on behalf of BGK, and at least at the time was its Executive Vice President. (Hatch Decl., Ex. C at 7.) As such, he personally verified that the Applicant had a bona fide intent to use the mark in commerce at the time of filing, which is a central issue in Opposer’s second and third grounds for opposition.

Mr. Schwartz’s testimony is therefore crucial in establishing whether (a) Applicant’s owner, manager and sole member disagrees with her husband’s public statements that they do not actually intend to use the trademark on their daughter’s name; (b) she also had no intent to use the trademark, but rather than signing the

“majority of courts use the good cause standard, including other federal districts within the Eighth Circuit”); *Apple Inc. v. Samsung Elecs. Co., Ltd.*, 768 F. Supp. 2d 1040, 1044 (N.D. Cal. 2011) (noting Ninth Circuit courts generally apply good cause standard); *Ayyash v. Bank Al-Madina*, 233 F.R.D. 325, 326–27 (S.D.N.Y. 2005) (applying “the flexible standard of reasonableness and good cause”).

declaration herself, had Mr. Schwartz (who is now a convicted criminal) sign on behalf of her company; or whether (c) she and her husband changed their minds since 2013, and now intend for her company to market a wide variety of goods under their daughter's name.

Turning to the five factors for showing good cause, the first factor – whether a preliminary injunction is pending – is moot because such relief is not available in the TTAB. The remaining four factors all weigh strongly in favor of granting relief.

The second factor considers the breadth of the discovery requests. Here, the request is narrowly directed to a single witness, Mr. Schwartz, on a single issue of the Applicant's bona fide intent to use the mark in commerce. This proceeding will involve many other witnesses and issues, none of which will be the subject of expedited discovery. This request is therefore narrowly tailored to obtaining relevant evidence for this one witness before he is incarcerated.

The third factor, the purpose for requesting the expedited discovery, also weighs strongly in favor of granting relief. By the time discovery formally opens on July 19, 2017, Mr. Schwartz will already be in prison in Oregon. Absent special permission, Mr. Schwartz will not have access to personal computers, email, and will be unable to conduct a meaningful search for relevant documents or information. Inmates are not also not permitted to access to Gmail or traditional email accounts, have no Internet access, and have very limited abilities to correspond with the outside world.² Allowing limited early discovery directed to Mr. Schwartz is therefore critical in preserving all

² For example, inmates have no Internet access, and may only send plain text electronic mail messages with no attachments through the Federal Bureau of Prisons TRULINKS program. (See Hatch Decl., Ex. E.)

relevant evidence.

Fourth, allowing expedited discovery will substantially reduce the burden on the Court and all parties. Mr. Schwartz currently resides in Los Angeles, where counsel for Opposer resides and where Applicant's law firm (Latham & Watkins) maintains two offices. (Hatch Decl., Ex D.) At this time, Mr. Schwartz can readily search for and produce documents and be deposed. After July 11, Mr. Schwartz will be confined in prison without access to relevant documents or other evidence. Even if documents could be identified and produced, conducting a deposition from prison requires obtaining an order from the Court, and following strict and burdensome procedures for gaining access to prison facilities for parties, counsel and any other participants who may be entitled to attend. (*See* Fed. R. Civ. P. 30(a)(2)(B), Hatch Decl., Ex. F. at 35-36.) Moreover, none of the parties' counsel maintain offices in Oregon, where Mr. Schwartz will serve his prison sentence. Allowing limited early discovery on Mr. Schwartz will therefore preserve relevant evidence, avoid unnecessary burden on the parties and the Court, and save tens of thousands of dollars in additional expenses .

Lastly, the fifth factor, which considers how far in advance of the typical discovery process the request was made, also weighs strongly in favor of granting relief. Mr. Schwartz is set to report to the Bureau of Prisons on July 11, only eight days before the formal opening of discovery on July 19. *See* Hatch Decl., Ex. A at 3; Dkt. No. 2 at 4.

Accordingly, all relevant factors weigh in favor of granting relief.

CONCLUSION

For the reasons discussed above, Opposer respectfully requests that the Court

allow limited early discovery on Jonathan Schwartz, to commence immediately.

Date: May 17, 2017

LAW OFFICE OF RYAN E. HATCH

By: / Ryan E. Hatch /
Ryan E. Hatch
13323 W. Washington Blvd., Suite 100
Telephone: (310) 435-6374
Facsimile: (312) 693-5328
Email: ryan@ryanehatch.com
Attorney for Opposer Blue Ivy

CERTIFICATE OF SERVICE

I hereby certify that a copy of this **MOTION FOR LEAVE TO TAKE LIMITED EARLY DISCOVERY** has been served upon:

Brad D. Rose,
Pryor Cashman LLP
7 Times Square
New York, New York
10036-6569
(tlee@pryorcashman.com)

Kathryn H. Ruemmler
Latham & Watkins LLP
555 Eleventh Street, NW, Suite 1000
Washington, D.C. 20004-1304
kathryn.ruemmler@lw.com

via email on May 17, 2017.

/ Ryan E. Hatch /

Ryan E. Hatch
Law Office of Ryan E. Hatch, P.C.
Attorney for Opposer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 86/883,293: BLUE IVY CARTER
Published in the Official Gazette of January 10, 2017 in all designated classes
(International Classes 3, 6, 9, 10, 12, 16, 18, 20, 21, 24, 26, 28, 35, and 41).

BLUE IVY,

Opposer,

v.

BGK TRADEMARK HOLDINGS, LLC,

Applicant.

Opposition No. 91234467

DECLARATION OF RYAN E. HATCH IN SUPPORT OF MOTION TO

EXPEDITE DISCOVERY

I, Ryan E. Hatch, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over the age of twenty-one and have never been convicted of a felony. I make this declaration based on my own personal knowledge. If called as a witness, I could and would testify competently to the matters set forth herein.
2. I am counsel for opposer Veronica Morales d/b/a Blue Ivy (“Blue Ivy” or “Opposer”) in this action against BGK Trademark Holdings, LLC (“BGK” or “Applicant”).
3. On May 17, 2017, I served Applicant with Opposer’s Initial Disclosures pursuant to Federal Rule of Civil Procedure 26(A)(1)(a).
4. Attached hereto as Exhibit A is a true and correct copy of the May 9, 2017 Judgment and Probation/Commitment Order retrieved from the docket in the matter *United States of America v. Jonathan Todd Schwartz*, Case No. 2:17-cr-00022-

DMG, Dkt. 39 (Central District of California).

5. On May 10, 2017, I emailed Applicant's counsel, Brad Rose, explaining that Applicant's Executive Vice President, Jonathan Schwartz, will surrender into custody for a prison sentence on July 11 and asking whether Applicant would stipulate to early discovery on Mr. Schwartz. Mr. Rose informed me that he no longer represents Applicant, and directed me to Kathryn Ruemmler of Latham & Watkins LLP. I followed up the same day with Ms. Ruemmler, with the same inquiry.

6. On May 12, 2017, Ms. Ruemmler of Latham & Watkins LLP left me a voicemail, but did not respond substantively to my May 10 inquiry. When I listened to her voicemail on Monday, May 15, 2017, I immediately called her and left voicemail messages in her New York and Washington, D.C. offices, requesting that she call to discuss this matter. I have not heard back from Ms. Ruemmler.

7. To date, I have never received a substantive response from Mr. Rose, Ms. Ruemmler, or anyone else representing the Applicant, regarding Opposer's May 10 inquiry as to whether Applicant will agree to stipulate to expedited discovery for Mr. Schwartz.

8. Attached hereto as Exhibit B is a true and correct copy of my correspondence with Applicant's counsel.

9. Attached hereto as Exhibit C is a true and correct copy of pages taken from Application Serial Number Serial Number: 86/883,293, retrieved from the United States Patent and Trademark Office.

10. Attached hereto as Exhibit D is a true and correct copy of a printout from Latham & Watkins' website taken on May 17, 2017, located at the URL <https://www.lw.com/presence?officeViewMode=ListView>.

11. Attached hereto as Exhibit E is a true and correct copy of excerpts from the Legal Resource Guide to the Federal Bureau of Prisons (2014), published by the U.S. Department of Justice, Federal Bureau of Prisons.

12. Attached hereto as Exhibit F is a true and correct printout of an article published in USA Today and available at the URL https://usatoday30.usatoday.com/tech/news/2008-08-16-prison-email_N.htm.

13. I declare under the penalty of perjury that the foregoing is true and correct.

Executed this day of May 17, 2017

By: / Ryan E. Hatch /
Ryan E. Hatch

EXHIBIT A

**United States District Court
Central District of California**

JS-3

UNITED STATES OF AMERICA vs.

Docket No. CR 17-22-DMGDefendant JONATHAN TODD SCHWARTZSocial Security No. 3 6 2 2akas: None.

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

MONTH	DAY	YEAR
MAY	3	2017

In the presence of the attorney for the government, the defendant appeared in person on this date.

COUNSEL

Nathan J. Hochman, Retained

(Name of Counsel)

PLEA

☒ **GUILTY**, and the court being satisfied that there is a factual basis for the plea. ☐ **NOLO** ☐ **NOT**
CONTENDERE **GUILTY**

FINDING

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:

Wire Fraud in violation of Title 18 U.S.C. § 1343 as charged in Count 1; and Subscription to a False Federal Tax Return in violation of Title 26 U.S.C. § 7206(1) as charged in Count 2 of the 2-Count Information.

**JUDGMENT AND
PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of: **SEVENTY-TWO (72) MONTHS**. This term consists of 72 months on Count 1, and 36 months on Count 2, all to be served **CONCURRENTLY**.

It is ordered that the defendant shall pay to the United States a special assessment of \$200, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

It is ordered that the defendant shall pay restitution in the total amount of \$8,657,268 pursuant to 18 U.S.C. § 3663A. The amount of restitution shall be paid to the victims in accordance with paragraph 121 of the Revised Presentence Investigation Report. Within ten days from the entry of judgment, the Government shall file a document under seal identifying the names and addresses of the victims to whom restitution is owed and it shall be incorporated herein by this reference.

Restitution shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, nominal monthly payments of at least 10% of defendant's gross monthly income, but not less than \$250, whichever is greater, shall be made during the period of supervised release, and shall begin 30 days after the commencement of supervision. Nominal restitution payments are ordered as the Court finds that the defendant's current economic circumstances do not allow for either immediate or future payment of the amount ordered.

USA vs. JONATHAN TODD SCHWARTZ

Docket No.: CR 17-22-DMG

If the defendant makes a partial payment, each payee shall receive approximately proportional payment unless another priority order or percentage payment is specified in this judgment.

Pursuant to 18 U.S.C. § 3612(f)(3)(A), interest on the restitution ordered is waived because the defendant does not have the ability to pay interest. Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

The defendant shall comply with General Order No. 01-05.

All fines are waived as the Court finds that the defendant does not have the ability to pay a fine in addition to restitution.

Upon release from imprisonment, the defendant shall be placed on supervised release for a period of THREE (3) YEARS. This term consists of three years on Count 1, and one year on Count 2, all such terms to run CONCURRENTLY, under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05;
2. During the period of community supervision, the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment;
3. The defendant shall cooperate in the collection of a DNA sample from the defendant.
4. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer;
5. The defendant shall participate in an outpatient substance abuse treatment and counseling program that includes urinalysis, breath, and/or sweat patch testing, as directed by the Probation Officer. The defendant shall abstain from using alcohol and illicit drugs, and abusing prescription medications during the period of supervision;
6. The defendant shall participate in a mental health treatment, which may include evaluation and counseling, until discharged from the treatment by the treatment provider, with the approval of the Probation Officer;
7. As directed by the Probation Officer, the defendant shall pay all or part of the costs of the Court-ordered treatment to the aftercare contractors during the period of community supervision, pursuant to 18 U.S.C. § 3672. The defendant shall provide payment and proof of payment as directed by the Probation Officer, unless the Probation Officer determines that the defendant does not have the ability to pay the costs of treatment, in which case the costs may be waived in whole or in part;
8. The defendant shall truthfully and timely file and pay taxes owed for the years of conviction, and shall truthfully and timely file and pay taxes during the period of community supervision. Further, the defendant shall show proof to the Probation Officer of compliance with this Order;

9. The defendant shall not be employed in any capacity wherein he has custody, control, or management of client's or employer's funds;
10. The defendant shall not engage, as whole or partial owner, employee or otherwise, telemarketing activities, investment programs or any other business involving the solicitation of funds or cold-calls to customers without the express approval of the Probation Officer prior to engaging in such employment. Further, the defendant shall provide the Probation Officer access to any and all business records, client lists, and other records pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Officer;
11. The defendant shall not be employed in any position that requires licensing and/or certification by any local, state, or federal agency without the prior written approval of the Probation Officer; and
12. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

The Court recommends that the defendant be assessed for suitability for the Bureau of Prisons' 500-Hour Residential Drug Treatment Program.

The Court authorizes the Probation Office to disclose the Presentence Report, and /or any mental health evaluations or reports, to the mental health or substance abuse treatment provider to facilitate the defendant's mental health treatment or treatment for narcotic addiction or drug dependency. Further disclosure of the Presentence Report by the treatment provider is prohibited without the consent of the sentencing judge.

The Court recommends that the Bureau of Prisons assign this defendant to the federal correctional institution at Sheridan, Oregon.

It is further ordered that the defendant surrender himself to the institution designated by the Bureau of Prisons at or before 12 noon on July 11, 2017. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at the Roybal Federal Building, 255 E. Temple Street, Los Angeles, California 90012.

The Statement of Reasons shall be provided to the United States Probation Office, Bureau of Prisons, and the United States Sentencing Commission.

The Court authorizes the Probation Office to disclose the Presentence Report and any addenda to the Bureau of Prisons and the United States Sentencing Commission.

The bond will be exonerated upon surrender.

The Court informs the defendant of his right to appeal.

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Docket No.: CR 17-22-DMG

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

May 9, 2017

Date



Dolly M. Gre, United States District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

May 9, 2017

Filed Date

By /s/ Kane Tien

Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

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☒ The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence (pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid):
 - Non-federal victims (individual and corporate),
 - Providers of compensation to non-federal victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure; and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. JONATHAN TODD SCHWARTZDocket No.: CR 17-22-DMG**RETURN**

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____

Date

Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____

Filed Date

Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant_____
Date_____
U. S. Probation Officer/Designated Witness_____
Date

EXHIBIT B

From: [Ryan Hatch](#)
To: [Ryan Hatch](#)
Cc: [Kathryn Ruemmler](#)
Subject: RE: Notice of Opposition - 91234467
Date: Wednesday, May 10, 2017 5:58:59 PM

Hello Kathryn,

Please see the question below and advise at your earliest convenience.

Best,

Ryan E. Hatch
310-435-6374

----- Original message -----

From: "Rose, Brad D." <BRose@PRYORCASHMAN.com>
Date: 5/10/17 5:24 PM (GMT-08:00)
To: Ryan Hatch <ryan@ryanehatch.com>
Cc: "Lee, Teresa" <TLee@PRYORCASHMAN.com>, Kathryn Ruemmler <Kathryn.Ruemmler@lw.com>
Subject: Re: Notice of Opposition - 91234467

We don't represent the client any longer. New counsel copied.

Brad D. Rose
Pryor Cashman LLP
7 Times Square
New York, New York 10036
212 326 0875
212 798 6369 (Private Fax)
brose@pryorcashman.com

www.pryorcashman.com

> On May 10, 2017, at 4:32 PM, Ryan Hatch <ryan@ryanehatch.com> wrote:

>

> Hi Brad,

>

> I represent Blue Ivy in the attached opposition proceeding. The TTAB's has entered a schedule that provides for discovery to open on July 19, 2017.

>

> We understand that BGK's Executive Vice President, Jonathan Schwartz, will surrender into custody for a prison sentence on July 11. Accordingly, we request an expedited discovery schedule with respect to Mr. Schwartz. We propose that Mr. Schwartz be served with discovery effective this week, and that we arrange for document production and then a deposition to be completed in May or June.

>

> Please let me at your earliest convenience if BGK will agree to such a stipulation. I am also happy to discuss if you would like.

>

> Best regards,

>
> Ryan E. Hatch
> Work: 310-279-5076
> Cell: 310-435-6374
>
>
> -----Original Message-----
> From: ESTTA@USPTO.GOV [<mailto:ESTTA@USPTO.GOV>]
> Sent: Wednesday, May 10, 2017 11:39 AM
> To: Ryan Hatch <ryan@ryanehatch.com>
> Subject: Notice of Opposition - 91234467
>
> UNITED STATES PATENT AND TRADEMARK OFFICE Trademark Trial and Appeal Board
>
> Opposition No. 91234467
> Application No. 86883293
>
> 05/10/2017
>
> IMPORTANT NOTICE
>
> A notice of opposition to registration has been filed with respect to the application listed above.
>
> The Trademark Trial and Appeal Board (TTAB) has issued an order instituting the opposition proceeding and setting trial dates. To see the order and the notice of opposition, click on the links below or paste the URLs into the address box of your browser.
>
> <http://ttabvue.uspto.gov/ttabvue/v?pno=91234467&pty=OPP&eno=1>
>
> <http://ttabvue.uspto.gov/ttabvue/v?pno=91234467&pty=OPP&eno=2>
>
> This order contains important information which you should review immediately. You must file a response to the notice of opposition within the time set forth in the institution order. This will be the only notification of this order you will receive. An email copy of the order itself will not be sent.
>
> If you are unable to view the order, call the TTAB for technical assistance at 571-272-8500. The TTAB Assistance Center is available Monday to Friday from 8:30 a.m. to 5:00 p.m. Eastern Time (ET). Do not use the reply button to respond to this message by email.
>
> _____
>
> The entire public file of this proceeding may be viewed at <http://ttabvue.uspto.gov>.
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>
> Further information is available at the TTAB's web page at <http://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board-ttab>.
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>
> <2017.05.10 - Schedule - ttabvue-91234467-OPP-2.pdf>
> <2017.05.10 - Opposition Proceeding - ttabvue-91234467-OPP-1.pdf>

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EXHIBIT C

Trademark/Service Mark Application, Principal Register

Serial Number: 86883293

Filing Date: 01/22/2016

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86883293
MARK INFORMATION	
*MARK	<u>BLUE IVY CARTER</u>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	BLUE IVY CARTER
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	BGK Trademark Holdings, LLC
INTERNAL ADDRESS	c/o GSO Business Management, LLC
*STREET	15260 Ventura Blvd., Suite 2100
*CITY	Sherman Oaks
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants)	91403
LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	Delaware
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	003
*IDENTIFICATION	Fragrances, cosmetics, skin care products, namely, non-medicated skin care preparations, non-medicated skin care creams and lotions, namely, body cream, hand cream, skin lotion, body lotions, skin moisturizers, skin emollient, skin cleansing creams, skin cleansing lotions, all for adults and infants; hair care products, namely, non-medicated hair care preparations, non-medicated hair gel, shampoo, conditioner, hair mousse, hair oils, hair pomades, hair spray.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	006

*IDENTIFICATION	Metal key chains and metal key rings.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	009
*IDENTIFICATION	DVDs, CDs, and audio and visual sound recordings featuring musical performances; musical sound recordings; computer application software for mobile phones, portable media players, and handheld computers for use in downloading music, ring tones and video games; handheld and mobile digital electronic devices, namely, tablet PCs, cellular phones, laptops, portable media players, handheld computers; cases and covers for mobile phones and mobile digital electronic devices, namely, laptops, cell phones, radio pagers, mobile computers; downloadable web-based application software in the nature of a mobile application downloadable to handheld and mobile digital electronic devices for use in downloading music, ring tones and video games; decorative magnets, eyewear, eyeglass cases; computer bags; graduated glassware.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	010
*IDENTIFICATION	Baby teething rings.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	012
*IDENTIFICATION	Baby carriages, baby strollers.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	016
*IDENTIFICATION	Books in the field of music, motion pictures, musical performers; photographs; posters; baby books; stickers; print materials, namely, art prints, color prints, concert programs, calendars, pens, post cards; gift bags; paper flags; trading cards; paper baby bibs.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	018
*IDENTIFICATION	Bags, namely, tote bags, beach bags, handbags, diaper bags, baby carriers worn on the body, pouch baby carriers, luggage; small leather goods, namely, leather cases, leather bags and wallets, leather purses, leather billfolds, leather key chains, leather key cases.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	020
*IDENTIFICATION	Plastic key chains and plastic key rings; small leather goods, namely, leather picture frames, leather key fobs, and leather key holders; plastic flags; vinyl banners, baby bouncers, baby changing mats, baby changing tables, high chairs for babies, playpens for babies.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	021
*IDENTIFICATION	Mugs; beverage glassware; plastic water bottles sold empty; hair accessories, namely, hair combs; baby bathtubs; drinking cups for babies.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	024
	Banners of cloth, nylon; flags, namely, cloth flags, nylon flags; towels; baby

*IDENTIFICATION	bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets; baby blankets.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	026
*IDENTIFICATION	Hair accessories, namely, hair ties, hair scrunchies, barrettes, hair bands, hair bows, hair clips, hair pins, hair ribbons, ponytail holders; novelty button; hair accessories, namely, electric hair-curlers, other than hand implements.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	028
*IDENTIFICATION	Playing cards, balls, namely, basketballs, baseballs, footballs, kick balls, rubber balls, beach balls, golf balls, hand balls, tennis balls, racquet balls, soccer balls, sport balls; dolls, baby multiple activity toys, baby rattles, baby teething rings, baby swings.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	035
*IDENTIFICATION	Product merchandising; online retail store services featuring music, musical recordings, motion pictures, clothing and clothing accessories, novelty items; Entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists.
FILING BASIS	SECTION 1(b)
INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, providing online video games, dance events by a recording artist, multimedia production services; Entertainment services in the nature of live musical performances; production of motion picture films, fan clubs.
FILING BASIS	SECTION 1(b)
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	The name "BLUE IVY CARTER" identifies a living individual whose consent is of record.
ATTORNEY INFORMATION	
NAME	Brad D. Rose, Esq.
ATTORNEY DOCKET NUMBER	20003.00007
FIRM NAME	Pryor Cashman LLP
STREET	7 Times Square
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10036-6569
PHONE	212 326 0875
FAX	212 798 6369
EMAIL ADDRESS	tle@pryorcashman.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Teresa Lee, Dyan Finguerra-DuCharme, Philippe Zylberg, and Muzamil Huq

CORRESPONDENCE INFORMATION	
NAME	Brad D. Rose, Esq.
FIRM NAME	Pryor Cashman LLP
STREET	7 Times Square
CITY	New York
STATE	New York
COUNTRY	United States
ZIP/POSTAL CODE	10036-6569
PHONE	212 326 0875
FAX	212 798 6369
*EMAIL ADDRESS	tle@pryorcashman.com;tmdocketing@pryorcashman.com
*AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS RF
NUMBER OF CLASSES	14
FEE PER CLASS	275
*TOTAL FEE DUE	3850
*TOTAL FEE PAID	3850
SIGNATURE INFORMATION	
ORIGINAL PDF FILE	hw_389416710-101841125_._Jonathan_Schwartz_itu.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\868\832\86883293\xml1\RFA0003.JPG
SIGNATORY'S NAME	Jonathan Schwartz
SIGNATORY'S POSITION	Executive Vice President

Trademark/Service Mark Application, Principal Register

Serial Number: 86883293

Filing Date: 01/22/2016

To the Commissioner for Trademarks:

MARK: BLUE IVY CARTER (Standard Characters, see below)

The literal element of the mark consists of BLUE IVY CARTER.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, BGK Trademark Holdings, LLC, a limited liability company legally organized under the laws of Delaware, having an address of
c/o GSO Business Management, LLC
15260 Ventura Blvd., Suite 2100
Sherman Oaks, California 91403
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 003: Fragrances, cosmetics, skin care products, namely, non-medicated skin care preparations, non-medicated skin care creams and lotions, namely, body cream, hand cream, skin lotion, body lotions, skin moisturizers, skin emollient, skin cleansing creams, skin cleansing lotions, all for adults and infants; hair care products, namely, non-medicated hair care preparations, non-medicated hair gel, shampoo, conditioner, hair mousse, hair oils, hair pomades, hair spray.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 006: Metal key chains and metal key rings.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 009: DVDs, CDs, and audio and visual sound recordings featuring musical performances; musical sound recordings; computer application software for mobile phones, portable media players, and handheld computers for use in downloading music, ring tones and video games; handheld and mobile digital electronic devices, namely, tablet PCs, cellular phones, laptops, portable media players, handheld computers; cases and covers for mobile phones and mobile digital electronic devices, namely, laptops, cell phones, radio pagers, mobile computers; downloadable web-based application software in the nature of a mobile application downloadable to handheld and mobile digital electronic devices for use in downloading music, ring tones and video games; decorative magnets, eyewear, eyeglass cases; computer bags; graduated glassware.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 010: Baby teething rings.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 012: Baby carriages, baby strollers.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 016: Books in the field of music, motion pictures, musical performers; photographs; posters; baby books; stickers; print materials, namely, art prints, color prints, concert programs, calendars, pens, post cards; gift bags; paper flags; trading cards; paper baby bibs.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 018: Bags, namely, tote bags, beach bags, handbags, diaper bags, baby carriers worn on the body, pouch baby carriers,

luggage; small leather goods, namely, leather cases, leather bags and wallets, leather purses, leather billfolds, leather key chains, leather key cases.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 020: Plastic key chains and plastic key rings; small leather goods, namely, leather picture frames, leather key fobs, and leather key holders; plastic flags; vinyl banners, baby bouncers, baby changing mats, baby changing tables, high chairs for babies, playpens for babies.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 021: Mugs; beverage glassware; plastic water bottles sold empty; hair accessories, namely, hair combs; baby bathtubs; drinking cups for babies.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 024: Banners of cloth, nylon; flags, namely, cloth flags, nylon flags; towels; baby bedding, namely, bundle bags, swaddling blankets, crib bumpers, fitted crib sheets, crib skirts, crib blankets; baby blankets.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 026: Hair accessories, namely, hair ties, hair scrunchies, barrettes, hair bands, hair bows, hair clips, hair pins, hair ribbons, ponytail holders; novelty button; hair accessories, namely, electric hair-curlers, other than hand implements.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 028: Playing cards, balls, namely, basketballs, baseballs, footballs, kick balls, rubber balls, beach balls, golf balls, hand balls, tennis balls, racquet balls, soccer balls, sport balls; dolls, baby multiple activity toys, baby rattles, baby teething rings, baby swings.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 035: Product merchandising; online retail store services featuring music, musical recordings, motion pictures, clothing and clothing accessories, novelty items; Entertainment marketing services, namely, marketing, promotion and advertising for recording and performing artists.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

International Class 041: Entertainment services, namely, providing online video games, dance events by a recording artist, multimedia production services; Entertainment services in the nature of live musical performances; production of motion picture films, fan clubs.

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services.

Miscellaneous Statement

The name "BLUE IVY CARTER" identifies a living individual whose consent is of record.

The applicant's current Attorney Information:

Brad D. Rose, Esq. and Teresa Lee, Dyan Finguerra-DuCharme, Philippe Zylberg, and Muzamil Huq of Pryor Cashman LLP 7 Times Square

New York, New York 10036-6569

United States

212 326 0875(phone)

212 798 6369(fax)

tlee@pryorcashman.com (authorized)

The attorney docket/reference number is 20003.00007.

The applicant's current Correspondence Information:

Brad D. Rose, Esq.

Pryor Cashman LLP

7 Times Square

New York, New York 10036-6569

212 326 0875(phone)

212 798 6369(fax)

tle@pryorcashman.com;tmdocketing@pryorcashman.com (authorized)

E-mail Authorization: I authorize the USPTO to send e-mail correspondence concerning the application to the applicant or applicant's attorney at the e-mail address provided above. I understand that a valid e-mail address must be maintained and that the applicant or the applicant's attorney must file the relevant subsequent application-related submissions via the Trademark Electronic Application System (TEAS). Failure to do so will result in an additional processing fee of \$50 per international class of goods/services.

A fee payment in the amount of \$3850 has been submitted with the application, representing payment for 14 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. § 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant is using the mark in commerce on or in connection with the goods/services in the application; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: Not Provided Date: Not Provided

Signatory's Name: Jonathan Schwartz

Signatory's Position: Executive Vice President

RAM Sale Number: 86883293

RAM Accounting Date: 01/25/2016

Serial Number: 86883293

Internet Transmission Date: Fri Jan 22 11:06:58 EST 2016

TEAS Stamp: USPTO/BAS-XX.XX.XXX.XX-20160122110658666

832-86883293-5509a227d6ebdce0fdcf76669d5

8929e1697b55d667c53459d7fcc98448e2cab8-D

A-430-20160122101841125826

BLUE IVY CARTER

DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that she is properly authorized to execute this application on behalf of Applicant; she believes Applicant to be the owner of the Mark sought to be registered, or, if the application is being filed under 15 U.S.C. 1051(b), she believes Applicant to be entitled to use such Mark in commerce; to the best of her knowledge and belief no other person, firm, corporation, or association, has the right to use the above-identified Mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods and services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of her own knowledge are true and all statements made on information and belief are believed to be true.

BGK TRADEMARK HOLDINGS, LLC

Dated: Jun 19, 2016

By: 

Jonathan Schwartz
Executive Vice President

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EXHIBIT E



U. S. Department of Justice

Federal Bureau of Prisons

LEGAL RESOURCE GUIDE

TO THE

FEDERAL BUREAU OF PRISONS

2014

Program Statement 5264.08, Inmate Telephone Regulations. To do so, inmates must specifically request staff assistance to first approve the call, and then place the call on an unmonitored staff telephone. A pretrial inmate may telephone his or her attorney as often as resources of the institution allow. See, 28 C.F.R. pt. 551, subpt. J, Access to Legal Resources and Program Statement 7331.04, Pretrial Inmates. To receive permission to place an unmonitored attorney call, an inmate is ordinarily required to establish that his or her communication with attorneys by other means is not adequate. The 300-minute per calendar month limitation does not apply to unmonitored legal telephone calls. Inmate requests for unmonitored attorney calls are carefully reviewed. Frequent unmonitored telephone calls increase an inmate's opportunity to pursue illegal activities without detection, and require an inordinate amount of staff time.

6. Inmate Involvement in Litigation While Incarcerated

(a) Depositions

Should an attorney wish to take an inmate's deposition, the attorney must contact the inmate directly. If the inmate wishes to cooperate, the attorney should then contact the relevant CLC covering the institution in which the deposition is to be held, to assist in making arrangements. Video or tape recorders are not permitted inside the institution without the prior written permission of the Warden. Such requests must be processed and approved prior to scheduling a visit. Visiting regulations apply, and all equipment is subject to search. Leave of a court of competent jurisdiction must be obtained prior to taking any deposition of a federal inmate. See FED. R. CIV. P. 30(a)(2). At the discretion of the Warden, a room may be made available for the deposition, should the inmate consent to be deposed.

(b) Subpoenas

Response to a subpoena by BOP staff will be processed in accordance with applicable policy. See, 28 C.F.R. pt. 513, Release of Information and Program Statement 1351.05, Release of Information. Should an attorney request the appearance of a staff member in a court proceeding, or request the production of documents by subpoena, the CLC attorneys will consult with the relevant U.S. Attorney's Office, in accordance with 28 C.F.R. pt. 16, subpt. B, Production or Disclosure in Federal or State Proceedings. Frequently, a request for documents may be more efficiently handled through a Freedom of Information Act (FOIA) request, rather than by subpoena. Consult the relevant CLC for additional information.

(c) Inmate Civil Suits – Service of Process

The BOP will not accept service of process for an inmate. Anyone desiring to serve an inmate may use a local process server, or otherwise follow local court procedures in the jurisdiction in which the inmate is housed. Wardens may require local process servers effectuating in-person service to be a law enforcement officer acting in that capacity, or to undergo a criminal background check. The prospective process server is advised to contact the CLC with responsibility for the institution in which the inmate is housed, for specific information.

(d) Court Appearance of an Inmate

In accordance with 28 C.F.R. pt. 527, subpt. D, and Program Statement 5875.12, Transfer of Inmates to State Agents for Production on State Writs, the BOP will consider the request of a state or local court for the transfer of an inmate to local physical custody pursuant to a state writ of habeas corpus *ad prosequendam* or *ad testificandum*). Such transfer is at the discretion of the Warden. Transfers in civil cases pursuant to a writ *ad testificandum* must be cleared through both the CLC counsel and the Warden. Transfers will be recommended only if the case is substantial, where testimony cannot be obtained through alternative means such as depositions or interrogatories, and where security concerns do not preclude such a transfer.

(e) Inmate Access to Discovery Materials

In some circumstances, an inmate may access litigation documents in various electronic formats other than printed form. Electronic legal materials for inmate review should be provided on a storage device appropriate with maintaining the safety and security of the institution. Should a request be received to view legal materials in a format which is not compatible with the configuration available at the institution, staff will advise the requestor. Specific requests should be directed to the Warden of the institution in which the inmate is confined.

G. Administrative Remedy Program

The Administrative Remedy Program provides every inmate with the opportunity to seek formal review of a grievance concerning virtually any aspect of his or her confinement, should informal procedures not achieve resolution. See, 28 C.F.R. pt. 542, subpt. B, and Program Statement 1330.17, Administrative Remedy Program. This program applies to all inmates confined in institutions operated by the BOP, inmates designated to contract RRCs, and to former inmates for issues which arose during confinement. Inmates are obligated to attempt informal resolution of grievances prior to filing a formal request for administrative remedy. Once a formal request is filed at the institution level (“BP-9”), the Warden of that facility has 20 days to investigate and provide the inmate a written response. If the inmate is dissatisfied with the Warden’s response, he or she has 20 days to file a Regional Administrative Remedy Appeal (“BP-10”). Once received in the Regional Office, the Regional Director has 30 days to investigate and provide the inmate a written response. If the inmate is dissatisfied with the Regional Director’s response, he or she has 30 days to file a Central Office Administrative Remedy Appeal (“BP-11”). Once received in the Central Office, the Administrator, National Inmate Appeals, has 40 days to investigate and provide the inmate a written response. After receiving the Administrator’s response, the inmate has exhausted the BOP’s Administrative Remedy Program. The program provides for expedited investigations and responses in emergency situations, as well as providing extensions of time for both filing grievances and receiving responses. No time limit is imposed upon an inmate raising allegations of sexual abuse through the administrative remedy system.

If the inmate considers the issue to be sensitive, e.g., the inmate’s safety or well-being would be placed in danger if the request became known at the institution, the inmate may submit the appeal

EXHIBIT F

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Letters from federal prisoners going electronic

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MIAMI (AP) — When Melvin Garcia was sent to prison almost a decade ago for racketeering, he had never used a computer. Now he sends 50 e-mails a month from a federal prison in West Virginia, punctuating notes with emoticons.

Garcia, 38, is among thousands of prisoners at more than 20 federal facilities where inmates now have inboxes. By the spring of 2011, all 114 U.S. prisons are expected to have e-mail available for inmates.

The program, started several years ago, has reduced the amount of old-fashioned paper mail that can sometimes hide drugs and other contraband. Just as important, officials say, e-mail helps prisoners connect regularly with their families and build skills they can use when they return to the community.

For Garcia, that means learning the computer.

"LET'S JUST SAY THAT MY PREVIOUS EMPLOYMENT DIDN'T REQUIRE IT :o)," he joked in a recent e-mail.

The system inmates use isn't like programs used in most offices and homes. Inmates aren't given Internet access, and all messages are sent in plain text, with no attachments allowed. Potential contacts get an e-mail saying a federal prisoner wants to add them to their contact list and must click a link to receive e-mail, similar to accepting a collect call from a lockup.

Once approved, prisoners can only send messages to those contacts — they can't just type in any address and hit send. And contacts can change their mind at any time and take their name off the prisoner's list.

Scott Middlebrooks, the warden at Coleman federal prison northwest of Orlando, said his inmates sent

more than 3,200 messages and received some 2,800 a day last month through the system, which is called TRULINCS and run by Iowa-based Advanced Technologies Group Inc.

The Federal Bureau of Prisons says the system pays for itself with some of the proceeds from prison commissaries. Inmates also pay 5 cents per minute while composing or reading e-mails.

Security, of course, is a concern. That's why the messages can be screened for keywords that suggest an inmate may be involved in a crime, or read by a corrections officer, just like paper letters. That can create some lag time between when messages are sent and received.

Without analyzing the program specifically, it would be impossible to tell whether inmates could abuse their e-mail privileges, said Bruce Schneier of the security firm BT Counterpane. Coded messages could be sent over e-mail, but that could happen just as easily over the phone, he said.

Despite possible delays for security screens, prisoners and their families say e-mail is still far faster than paper mail. In the past it sometimes took Garcia two days to get urgent news from his fiancée, Rita Torres. Her express mail letters letting him know that a friend had been in a car accident and that a relative had had a miscarriage were delayed.

Now, she said, she e-mails him three times a day and gets about as many e-mails back, making it feel as though they are "living in the same house" even though she is five hours away in New Jersey.

The e-mails don't replace phone calls, but those are limited to five hours a month. And Torres still sends letters, some sprayed with perfume.

What e-mail does, however, is provide another link to the outside for Garcia and other inmates.

"Receiving an e-mail is like receiving a letter," William Nerlich, a federal prisoner in Georgia who has another six years to serve on a weapons charge, wrote in an e-mail to The Associated Press. "It makes you happy to be thought of."

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