



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

Consolidated Opposition No. 91/153,578  
 Appln. Serial Nos.: 76/074,595  
 and 76/075,729



12-02-2003  
U.S. Patent & TM Office/TM Mail Rcpt Dt. #22

**KONAMI CORPORATION’S BRIEF IN OPPOSITION  
 TO OPPOSER’S MOTION TO COMPEL AND PRECLUDE**

Pursuant to 37 CFR § 2.127 and Fed. R. Civ. P. 26, Applicant Konami Corporation submits this brief in opposition to the Motion to Compel (“Motion”) filed by Opposer, UGO Networks (“Opposer”). Opposer’s Motion should be denied because Konami supplemented its document production the day Opposer filed its Motion, a fact of which Opposer was aware, before filing its motion. Konami also served its supplemental discovery responses on November 13, 2003, the day after Opposer filed its motion.

Although Opposer seeks to cast Konami in a bad light, Opposer agreed to delay discovery issues literally for months while the parties explored a possible settlement of this proceeding. Once it became clear that those discussions would not bear fruit, due to an extortionist proposal made by Opposer, Konami served its supplemental discovery responses on November 13, 2003, a week before Opposer served its supplemental discovery responses.

Opposer, in contrast delayed responding to Konami’s repeated requests for supplementation of its discovery responses and did not serve its supplemental discovery responses until November 17, 2003. It then withheld responsive documents for two additional

days before agreeing to produce them to Konami. Indeed, to date, Opposer still has failed to produce a few boxes of responsive documents, notwithstanding Konami's request for those documents and agreement to pay reproduction and courier charges in connection with their production. As detailed in Konami's separate Motion to Compel against Opposer, Opposer also simply refused to produce its available witnesses for timely noticed depositions with no justification whatsoever.

Most importantly, Konami's supplemental discovery responses served on November 13, 2003 obviate Opposer's motion and make clear that Konami has fulfilled its discovery obligations. Accordingly, Opposer's Motion to Compel should be denied.

#### I. INTRODUCTION

In this opposition proceeding, Opposer has opposed Konami's applications to register two design marks in stylized Kanji characters, the transliteration of which in English is "YU-GI-OH," which means "King of the Game." Opposer bases its opposition on an alleged aural similarity with Opposer's UGO mark, which means "UnderGround Online," notwithstanding that the parties' marks differ in appearance, sound, meaning and commercial impression.

#### II. STATEMENT OF FACTS

Opposer served its discovery requests on January 29, 2003. (Exhibits 1, 2, and 3.) After agreed extensions of time to respond, Applicant served its objections and responses to Opposer's First Set of Interrogatories, First Requests for Production of Documents and Things, and First Requests for Admissions. (Exhibits 7, 8, and 9.) Applicant previously had consented to three extensions of time for Opposer to respond to Applicant's discovery. (Exhibits 4, 5, and 6.)

Each party challenged the sufficiency of the other party's discovery responses. For example, Applicant made at least five (5) written attempts over the past five (5) months to obtain

adequate discovery responses from Opposer, as well as several other less formal attempts by telephone. (See Exhibits 10, 12, 13, 17 and 18.) Opposer also challenged the sufficiency of Applicant's discovery responses.

Nevertheless, on July 31, 2003, six weeks after Applicant had requested that Opposer supplement its discovery responses, Opposer proposed that the parties put the discovery issues on hold to discuss settlement. (Exhibit 11.)

After settlement negotiations ended, and a Stipulated Protective Order was in place, Applicant reiterated its initial request that Opposer supplement its discovery responses. In a letter to opposing counsel, dated October 7, 2003, Applicant again asked Opposer to supplement or change its aforementioned responses to discovery requests which were deficient. (Exhibit 12.) Applicant repeated that request several times. (Exhibits 13, 17, and 18.) Yet Opposer did not supplement its responses until after it filed a motion to compel against Applicant. (Exhibits 26 and 27.) Even then, Opposer's supplemental discovery responses remained deficient. (Exhibit 29.)

Although Applicant repeatedly informed Opposer that it would be supplementing its document production and its discovery responses, Opposer nevertheless filed its motion to compel the same day as Applicant's supplemental document production and the day before Applicant served its supplemental discovery responses. (See Exhibits 12, 13, 21, 22, 23 and 24.)

This was a transparent attempt to avoid the depositions Applicant had scheduled of Opposer and two of its officers for November 24 and 25, 2003. (Exhibit 12, 14, 19, 20 and 25.) Opposer unilaterally refused to produce these witnesses for deposition based on a claim that it had priority in the sequence of depositions – a premise repeatedly rejected by the Board. See Miss America Pageant v. Petite Productions Inc., 17 USPQ2d 1067 (TTAB 1990) (Exhibits 19

and 25.) Opposer also sought to rationalize that refusal on the ground that Applicant, Konami Corporation, was not going to produce a Rule 30(b)(6) deponent in New York City pursuant to a notice of deposition Opposer had served. However, because Konami is a Japanese corporation based in Japan, it is not subject to deposition in the United States. Jain v. Ramparts, Inc., 49 USPQ2d 1429 (TTAB 1998). Applicant repeatedly informed Opposer of this basic principle, which Opposer merely ignored. (Exhibits 13 and 20.)

At bottom, had Opposer been patient enough to wait an additional day, its motion to compel would have been unnecessary. Of course, that would not have served Opposer's ulterior motive of seeking to justify its unjustifiable refusal to produce its own witnesses for deposition in response to proper and timely notices.

A review of Applicant's supplemental discovery responses makes clear that Opposer's Motion is moot and should not have been filed in the first instance.

### III. ARGUMENT

#### **A. UGO Network's Motion Ignores Konami's Supplemental Discovery Responses**

Although Konami had informed Opposer that it would be serving its supplemental responses, Opposer filed its motion to compel the same day Konami produced its supplemental documents and the day before Konami served its written supplemental discovery responses. (Exhibits 18, 20, 21, 22, 23 and 24.) With the benefit of Konami's supplemental responses, it becomes clear that Konami has fulfilled its discovery obligations and cured any allegedly deficient responses.

#### **B. Konami has Disclosed Relevant Fact Witnesses**

Opposer's Motion ignores Applicant's supplemental interrogatory responses, which identify the relevant fact witnesses sought in Opposer's Interrogatories. With the exception of

Interrogatory No. 1, where Applicant properly has objected to providing information that is not within Applicant's possession, custody or control, Applicant has identified fact witnesses responsive to Interrogatory Nos. 2, 3, 8 and 14.<sup>1</sup> Specifically, Applicant has identified fact

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**<sup>1</sup> INTERROGATORY NO.2:**

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

**SUPPLEMENTAL RESPONSE**

Subject to the forgoing objections, Applicant states that Yukio Kobayashi, Manager of Konami Corporation's Trademark Group, participated in activities relating to preparing, filing and/or prosecuting the application to register Applicant's Mark.

**INTERROGATORY NO. 3:**

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

**SUPPLEMENTAL RESPONSE**

Applicant objects to this interrogatory on the basis that the information sought is within the custody or control of third-persons over whom Applicant does not exercise control.

Subject to the foregoing objections, Applicant states that Yukio Kobayashi, Manager of Konami Corporation's Trademark Group, participated in activities relating to the consideration, selection and adoption of Applicant's Mark.

**INTERROGATORY NO. 8:**

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

**SUPPLEMENTAL RESPONSE**

- a. Linda Stackpoole, manufacturing; Dennis Lee and Monique Catley, production and packaging.
- b. Dennis Lee, Rich Naylor, Chris Garske, Tammy Schachter.
- c. Catherine Fowler, Brad Robinson, Matt Robinson, Daniel Castillo, Jean Chung.

witnesses involved with the registration of Applicant's Mark (Int. 2), the selection and adoption of Applicant's Mark (Int. 3), the manufacture, production, marketing, promotion and advertising of Applicant's Mark (Int. 8) and the entities involved with the advertising and promotion of products and services under Applicant's Mark (Int. 14). (Exhibit 22.) Opposer's mere assertion that Applicant has failed to identify relevant fact witnesses is simply wrong. The Board should deny this aspect of Opposer's Motion.

**C. Konami Has Provided Information Regarding Knowledge or Discussions of Opposer's Mark**

Again, without consideration of Applicant's supplemental discovery responses, Opposer wrongly claims that Konami has not disclosed its knowledge or discussions of Opposer's Mark. Opposer challenges Konami's responses to Interrogatory No. 21 and Document Requests Nos. 17 and 21.<sup>2</sup>

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**INTERROGATORY NO. 14:**

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

**SUPPLEMENTAL RESPONSE**

Subject to the objections in its original response, the following entities have rendered services on Applicant's behalf in connection with the advertising and promotion of Applicant's products: Vendor Help Impact, Shounen-Jump (Viz Communication), Matel, 4 Kids Entertainment, Kids WB, Department X, and Freelance Designer.

<sup>2</sup> **INTERROGATORY NO. 21:**

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

In its supplemental interrogatory answers, Konami supplemented its answer to Interrogatory No. 21 and provided all responsive information. (Exhibit 22.)

In its original document production, Konami produced non-confidential documents responsive to Document Request No. 17 concerning communications regarding third party use of any mark allegedly similar to Applicant's Mark. In its supplemental production, Konami produced confidential documents responsive to Request 17, which had been withheld pending entry of a protective order by the Board. Konami has fully responded to Document Request No. 17 by producing all documents responsive to this Request.

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Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed.R.Civ.P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant refers to its response to Request No. 4 of Opposer's First Request for Admissions.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

#### **SUPPLEMENTAL RESPONSE**

Subject to the objections included in its original response above, Applicant states that Konami of America, Inc. first learned of Opposer's use of Opposer's Mark on December 26, 2002, via internal e-mail correspondence of the same date.

#### **REQUEST NO. 17**

All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant's Mark or the term "YU-GI-OH."

#### **SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce confidential, non-privileged documents responsive to this request previously withheld pending entry of a suitable Protective Order by the Board.

Similarly, in its supplemental document production on November 12, 2003, Konami produced over 120 pages of documents responsive to Document Request No. 21 concerning documents regarding meetings “referring to Applicant’s Mark and/or Opposer’s Mark.” At this point in time, Konami has produced all documents responsive to Document Request No. 21.

Accordingly, to the extent Opposer’s Motion concerns Konami’s obligations regarding Interrogatory No. 21 and Document Requests Nos. 17 and 21, the Motion is moot, because Konami has fully responded. Konami has no additional responsive information to provide.

**D. Konami has Produced Responsive Evidence Concerning its Enforcement Efforts**

On this issue, Opposer challenges Konami’s answer to Interrogatory No. 19 (not Interrogatory No. 21 as incorrectly stated in Opposer’s Motion) and Document Request No. 17.<sup>3</sup>

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**<sup>3</sup> INTERROGATORY NO. 19**

If Applicant has ever objected to any entity's use or registration of any trade name, trademark, service mark or descriptive term on the basis of Applicant's Mark, summarize the substance of each such objection and the resolution of the objection.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Subject to and without waiving the foregoing objections, Applicant states that it objected to a number of applications for federal trademark registration filed by Syconet.com incorporating the term YUGI-OH. The Syconet.com applications that were the subject of Applicant’s objections were subsequently abandoned.

**REQUEST NO. 17:**

All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant’s Mark or the term “YU-GI-OH.”



In its original response to Interrogatory No. 19, Konami fully responded to the Interrogatory by providing the information requested.<sup>4</sup>

As for Document Request No. 17, Konami has produced non-confidential and confidential documents responsive to this request, including documents produced both in its original document production and its supplemental document production on November 13, 2003.

As a result, Konami has fully complied with its discovery obligations in producing information concerning its enforcement efforts responsive to Interrogatory 19 and Document Request No. 17.

**E. Konami Already Has Produced  
Representative Licenses of Applicant's Mark**

Regarding licenses of Konami's Marks, Opposer has challenged Konami's responses to Interrogatories 9 and 18 and Document Requests 43 and 45.<sup>5</sup>

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**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce confidential, non-privileged documents responsive to this request previously withheld pending entry of a suitable Protective Order by the Board.

<sup>4</sup> See Appendix, Exhibit 7, p. 11; n.3 *supra*.

**<sup>5</sup> INTERROGATORY NO.9:**

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP §407.02, in response to Opposer's Request for Production No. 43.

Regarding Interrogatory No. 9 and Request No. 43, Konami has been unable to identify any responsive information or documents to date. Obviously, Konami cannot and has no obligation to provide information that it does not have. If the Board deems it appropriate, Konami can supplement its answer to Interrogatory No. 9 and Request No. 43 to state that it has been unable to identify any responsive information or documents to date.

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**INTERROGATORY NO. 18:**

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements), with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP §407.02, in response to Opposer's Request for Production No. 43.

**REQUEST NO. 43**

All documents reflecting, referring to or relating to Applicant's acquisition of the right to use or register Applicant's Mark from another entity.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce confidential, non-privileged documents responsive to this request previously withheld pending entry of a suitable Protective Order by the Board.

**REQUEST NO. 45**

All agreements or other indicia of understanding (including, but not limited to, licenses and agency, distributorship and joint venture agreements) with any entity concerning use of Applicant's Mark or to any plans by Applicant to consider or commence licensing or other exploitation by third parties of Applicant's Mark.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce confidential, non-privileged documents responsive to this request previously withheld pending entry of a suitable Protective Order by the Board.

As for Interrogatory No. 18 and Request No. 45, Konami supplemented its response to this interrogatory and produced responsive documents on November 13, 2003. Konami also designated documents responsive to this Interrogatory pursuant to Fed. R. Civ. P. 33(d). (See Exhibit 21.) Opposer's bombastic claim that Konami has refused to produce any responsive information is simply wrong. Accordingly, this aspect of Opposer's Motion should be denied.

**F. Konami Properly Objected to Requests Seeking All Evidence in Support of Konami's Affirmative Defenses**

Opposer challenges Konami's objections to Opposer's overly broad discovery seeking all facts and all documents which support Konami's second, third, sixth and seventh affirmative defenses.<sup>6</sup> Consistent with Board precedent, Konami properly objected to this overly broad and unduly burdensome discovery, which fails to articulate what information is sought or what documents are requested and improperly seeks to compel Konami to produce its trial evidence before trial.

"It is settled that a party in a Board proceeding generally has no obligation to identify its fact witnesses or other trial evidence prior to trial." Time Warner Entertainment Co. v. Jones, 65 USPQ2d 1650 (TTAB 2002); British Seagull Ltd. v. Brunswick Corp., 28 USPQ2d 1197 (TTAB 1993), aff'd, 35 F.3d 1527, 32 USPQ2d 1120 (Fed. Cir. 1994); Charrette Corp. v. Bowater Communication Papers Inc., 13 USPQ2d 2040 (TTAB 1989); TBMP §419(7). As was the case in Time Warner, Opposer's interrogatories and document requests purporting to require Konami to "state fully and completely all facts which support" and "all documents and things which support" particular affirmative defenses are "equivalent to a request for identification of fact witnesses and trial evidence prior to trial, and therefore improper." Time Warner, 65 USPQ2d at 1656. Because Interrogatories 29, 30, 33 and 34, and Document Requests 29, 30, 33 and 34

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<sup>6</sup> See Opposer's Motion, p. 12-13, n. 14.

improperly sought disclosure of Applicant's trial evidence in advance of trial, Applicant's objections on this ground were proper. Accordingly, the Board should deny this aspect of Opposer's Motion.

**G. Preclusion of Evidence is Inappropriate  
At this Stage in the Proceedings**

Opposer improperly seeks to preclude evidence at trial notwithstanding its deficient discovery responses and its refusal to produce witnesses for deposition, which are the subject of a separate motion to compel filed by Konami Corporation on November 26, 2003. Opposer has been hypocritical. It refused to supplement its inadequate discovery responses for five months, filed a motion to compel the day Applicant provided its supplemental document production and the day before Applicant supplemented its discovery responses, and only later did Applicant supplement its discovery responses. Even then, those purported supplemental responses were grossly inadequate. Of course, Opposer's Motion is an attempt to justify its improper refusal to produce its witnesses for deposition. (Exhibits 19 and 25.)

At this stage in the proceeding, where both parties only recently supplemented their discovery responses and no depositions have been taken, preclusion of evidence is inappropriate. Konami has fully responded to Applicant's discovery and did so as quickly as it could once the parties' settlement discussions ended as a result of extortionist demands made by Opposer.

Moreover, the discovery sanctions Opposer seeks are not available under either Rule 2.120(g)(1) or 2.120(g)(2). Applicant has not violated any order of the Board relating to discovery, so sanctions under Rule 2.120(g)(1) do not apply. Mama Mia Pasta Rest. Co. v. Clubs of Am., Inc., 1999 T.T.A.B. LEXIS 69, at \*8 (T.T.A.B. Feb. 22, 1999) (unpublished). Similarly, sanctions under Rule 2.120(g)(2) are not available because Applicant has responded to Opposer's discovery requests, has supplemented its discovery responses and has produced

voluminous responsive documents. See Id. at 9. Sanctions under Rule 2.120(g)(2) are only available where a party has failed to respond to discovery and has informed the propounding party that it will not respond. 37 CFR § 2.120(g)(2); TBMP § 527.02. That simply is not the case here.

In light of Konami's good faith supplementation of its discovery responses and its thorough document production, preclusion of evidence is not justified. Konami respectfully requests that the Board deny this request.

**Conclusion**

For all of the foregoing reasons, Konami respectfully requests that Opposer's Motion to Compel should be denied.

Respectfully submitted,

KONAMI CORPORATION

By:

  
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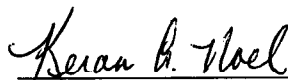
Dated: December 2, 2003

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**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of **KONAMI CORPORATION'S BRIEF IN OPPOSITION TO OPPOSER'S MOTION TO COMPEL** and **APPENDIX OF MATERIALS IN SUPPORT THEREOF (WITH EXHIBITS)** to be served on counsel for Opposer, this 2nd day of December, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099



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Keran A. Noel

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

UGO NETWORKS, INC.,	)	
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	)	Consolidated Opposition No. 91/153,578
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KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

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**Counsel for Applicant  
Konami Corporation**

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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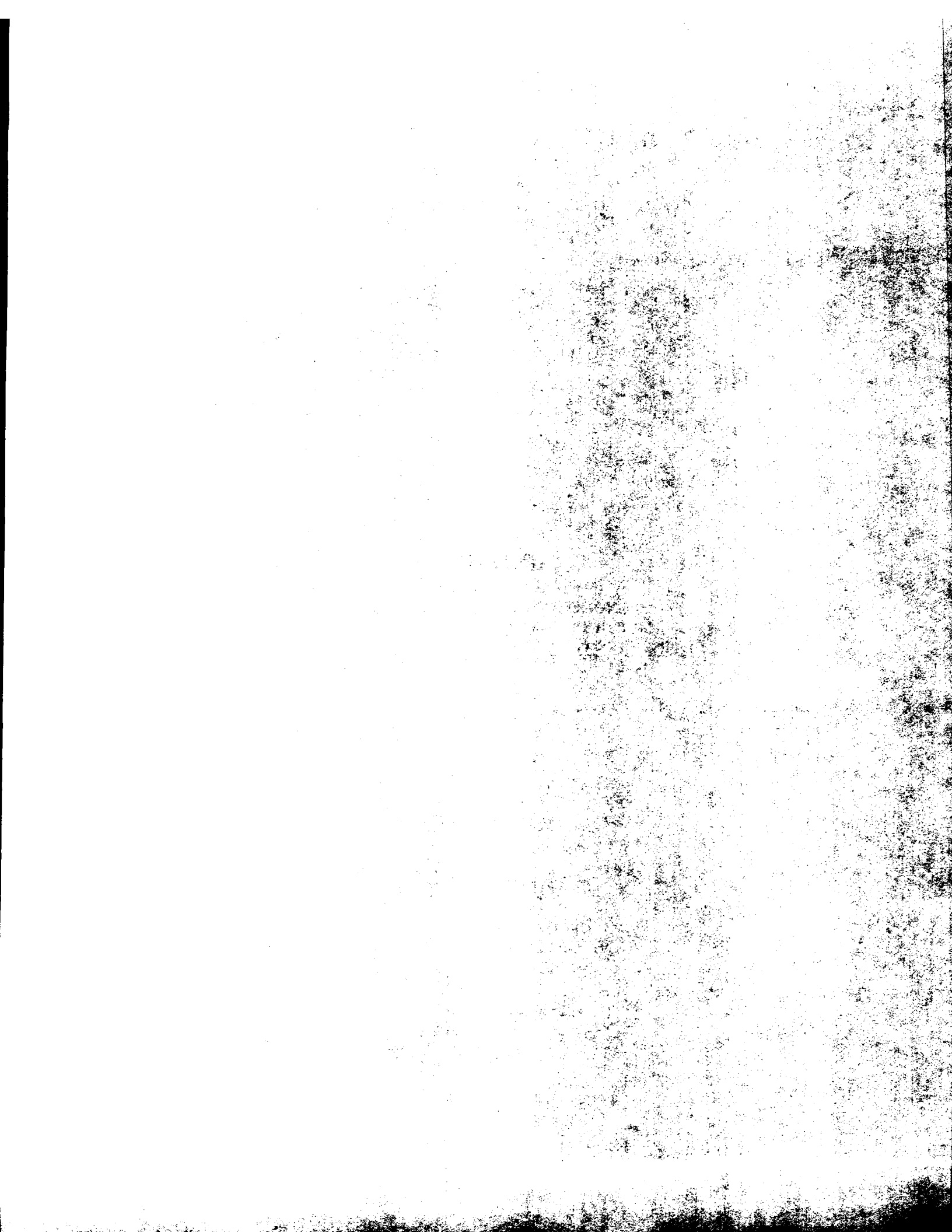
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	)	
Applicant.	)	
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**EXHIBIT 1**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

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 Applicant. )  
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OPPOSER'S FIRST SET OF INTERROGATORIES

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, UGO NETWORKS, INC., requests that Applicant, KONAMI CORPORATION, answer the following interrogatories under oath within thirty (30) days after service hereof upon Applicant's counsel of record in this proceeding.

Dated: New York, New York  
January 29, 2003

Yours, etc.,

UGO NETWORKS, INC.

By:           Natasha Snitkovsky            
William M. Ried  
Natasha Snitkovsky  
Its Attorneys

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COPY SENT TO  
DOCKETING

On: 2/5/03  
By: Reggie P - dlb

## DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
- C. As used herein, "Applicant's Mark" refers collectively to the mark represented by Application No. 76/074,595 in the United States Patent and Trademark Office and to the design mark consisting of the term "Yu-Gi-Oh" in stylized Kanji characters as used by Applicant in any form alone or with another word or design.
- D. As used herein, "Opposer's Mark" refers individually and collectively to the mark UGO, as used by Opposer or Opposer's predecessor in interest, in block letter or stylized form, including as represented in Registration Nos.: 2,450,661; 2,519,204; and 2,562,837.
- E. As used herein, "Commerce" refers to commerce regulable by Congress, as defined in 15 U.S.C. § 1127.
- F. In the event the answer to any interrogatory is not within Applicant's knowledge or a complete answer to a particular interrogatory is not possible, Applicant's answer should so indicate and Applicant should answer the interrogatory to the extent possible, specifying the reason for the inability to answer the remainder and stating any information or knowledge in the Applicant's possession concerning the unanswered portion.
- G. The singular and plural forms are used herein interchangeably, as are the masculine and

feminine forms. Additionally, the terms "and" and "or" are meant as both conjunctive and disjunctive.

- H. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- I. As used herein, "document" has the broad meaning ascribed to that term by Rule 34 of the Federal Rules of Civil Procedure and refers to that writing, recording or other transcription of data of any kind from which information may be obtained, including all drafts and non-identical copies thereof, regardless of origin or location.
- J. As used herein, "identify" or "identity" shall be deemed to request the following information:
- 1) When used in reference to a natural person: his/her full name and last known address;
  - 2) When used in reference to any entity other than a natural person: its full name and the address of its principal place of business; and
  - 3) When used in reference to a document and any draft or non-identical copy thereof: its date, author(s) and the identity of its present location and present custodians.
- K. "Including" shall be construed to mean "without any limitation." The word "all" includes "any" and vice versa. The past tense shall include the present tense and the present tense shall include the past tense so as to make the interrogatory inclusive, rather than exclusive.

- L. Each person answering these interrogatories is required to furnish information within that person's personal knowledge and the possession of that person's attorneys, agents, representatives or employees.
- M. If Applicant claims attorney-client privilege or any other privilege in reference to any request for production, the allegedly privileged document need not be produced, but Applicant shall state with respect to such document sufficient information to explain the claim of privilege and permit the adjudication of the propriety of that claim, including the following information: (i) the date of the document; (ii) a description of the subject matter of the document; and (iii) the name(s) and address(es) of each person who has prepared, received and/or had possession, custody or control of the document or a copy thereof.
- N. In addition to providing supplementary and amended responses as required by Rule 26(e) of the Federal Rules of Civil Procedure, Opposer requests that, if Applicant subsequently identifies further or different information relevant to any request herein, it produce such documents to Opposer's attorneys promptly. If Applicant is not agreeable for any reason to providing such supplementary and amended responses, Opposer requests that Applicant so advise Opposer's attorneys at the time it serves its original response to these interrogatories.

### INTERROGATORIES

#### INTERROGATORY NO. 1:

Identify each person with knowledge concerning Applicant's use (past, current or planned) of Applicant's Mark in Commerce, including the first use in Commerce of Applicant's Mark.

INTERROGATORY NO. 2:

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

INTERROGATORY NO. 3:

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

INTERROGATORY NO. 4:

Identify the date of first use of Applicant's Mark in Commerce, if any, and each document upon which Applicant will rely to establish such date.

INTERROGATORY NO. 5:

If Applicant used any variation of Applicant's Mark in Commerce prior to the date identified in response to Interrogatory No. 4, identify each such variation and the manner and date of first use of such variation.

INTERROGATORY NO. 6:

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and



- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

INTERROGATORY NO. 7:

If Applicant's offer for sale and sale in Commerce of each product or service identified in response to Interrogatory No. 6 has not been continuous from the date of first use of Applicant's Mark, identify the length of such cessation and explain the reason for any cessation.

INTERROGATORY NO. 8:

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

INTERROGATORY NO. 9:

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

INTERROGATORY NO. 10:

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

INTERROGATORY NO. 11:

Identify the type of individuals, corporations or other entities to whom Applicant's products and services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

INTERROGATORY NO. 12:

Identify the marketing channels through which Applicant's products and services are marketed and promoted or proposed to be marketed and promoted under Applicant's Mark.

INTERROGATORY NO. 13:

Identify the channels of distribution through which Applicant's products and services are sold or proposed to be sold under Applicant's Mark.

INTERROGATORY NO. 14:

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

INTERROGATORY NO. 15:

If Applicant has ever received a statement or opinion from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by any other entity, identify:

- a. the entity that rendered the statement or opinion;
- b. each person acting for Applicant who received a written or oral communication of the statement or opinion;

- c. the date(s) Applicant received written or oral communication(s) of the statement or opinion; and
- d. each and every document reflecting, referring to or relating to such statement or opinion.

INTERROGATORY NO. 16:

If Applicant has ever conducted or commissioned or is otherwise aware of any survey, sampling, focus group or other formal or informal study, concerning the recognition or reaction to Applicant's Mark or goods or services bearing Applicant's Mark or to Opposer's Mark or goods or services bearing Opposer's Mark, identify:

- a. the date of the survey, sampling, focus group or other study;
- b. the individuals involved in reporting of, designing and conducting the survey, sampling, focus group or other study;
- c. the results of the survey, sampling, focus group or other study; and
- d. each and every document reflecting or referring or relating to the survey, sampling, focus group or other study.

INTERROGATORY NO. 17:

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

INTERROGATORY NO. 18:

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements),

with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

INTERROGATORY NO. 19:

If Applicant has ever objected to any entity's use or registration of any trade name, trademark, service mark or descriptive term on the basis of Applicant's Mark, summarize the substance of each such objection and the resolution of the objection.

INTERROGATORY NO. 20:

If Applicant has ever been a party to, or otherwise participated in, any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark, state the full caption of the litigation or proceeding (including the names of all parties, commencement date, venue and docket number) and describe the resolution or status of the litigation or proceeding.

INTERROGATORY NO. 21:

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

INTERROGATORY NO. 22:

Identify in detail each incidence, within Applicant's knowledge, of confusion or mistake between Applicant's Mark and Opposer's Mark, or between Applicant and Opposer, including the person(s) confused and each person affiliated with Applicant who has knowledge of such incidents.

INTERROGATORY NO. 23:

As to each person whom Opposer intends to rely upon as an expert witness, state:

- a. the qualifications of the expert;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions to which the expert is expected to testify; and
- d. a description of each document the expert has reviewed or relied upon in formulating his or her opinion and each and every document the expert will assert supports each of his or her opinions.

INTERROGATORY NO. 24:

State fully and completely all facts which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 25:

State fully and completely all facts which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 26:

State fully and completely all facts which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 27:

State fully and completely all facts which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

INTERROGATORY NO. 28:

State fully and completely all facts which support Applicant's first affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 29:

State fully and completely all facts which support Applicant's second affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 30:

State fully and completely all facts which support Applicant's third affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 31:

State fully and completely all facts which support Applicant's fourth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 32:

State fully and completely all facts which support Applicant's fifth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 33:

State fully and completely all facts which support Applicant's sixth affirmative defense, dated December 27, 2002.

INTERROGATORY NO. 34:

State fully and completely all facts which support Applicant's seventh affirmative defense, dated December 27, 2002.

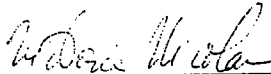
INTERROGATORY NO. 35:

With respect to each interrogatory herein, identify the person or persons who furnished information regarding the answers given.

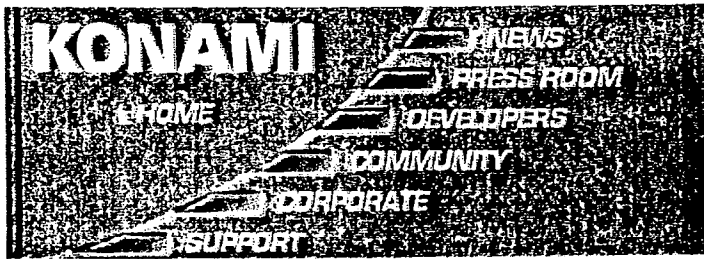
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST SET OF INTERROGATORIES was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

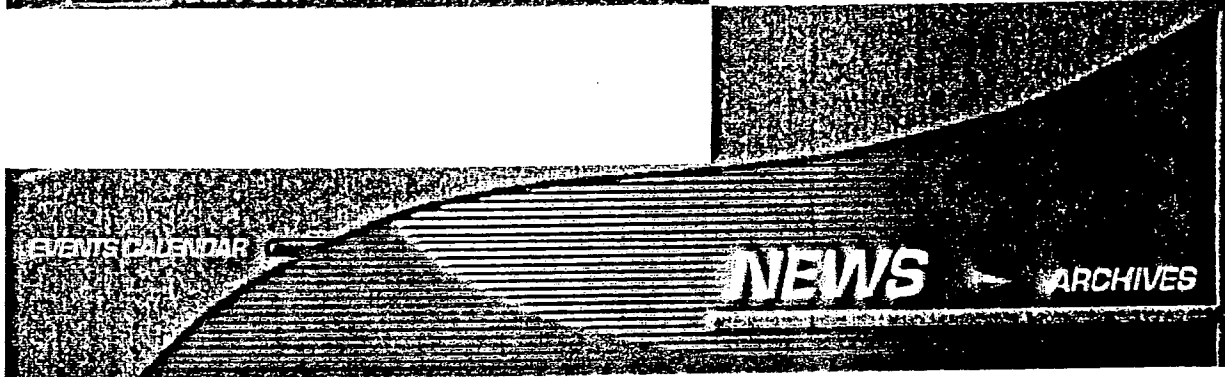
Jeffrey H. Kaufman  
Brian B. Darville  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
Fax (703) 413-2220

  
Victoria Nicolau





[Check Out The Games -->](#)



**01.22.03**

GameSpyDaily has posted some new screens and info on Konami's upcoming casino management game, Casino, Inc. Head on over and check it out!

**01.20.03**

For everyone who just can't get enough of our upcoming 2003 line-up, we've posted a whole bunch of new art, screens and logos for everything in our Media section. Click here to check it out!

**01.16.03**

Konami announced its upcoming blockbuster 2003 line-up at its **Gamers' Day 2003** press event held today in San Francisco, CA. During the event, amazing new details and surprises were revealed of such anticipated hits as Silent Hill 3, Zone of the Enders: The 2nd Runner, and the upcoming Teenage Mutant Ninja Turtles titles. Click here to read the press releases!

**01.09.03**

GameSpot.com has announced their picks for Best and Worst of 2002 and Suikoden III was honored with the award for Best Role-Playing Game on PlayStation® 2. Click here to read all about it!

**01.06.03**

Xbox Gamers First.com has posted a review for Metal Gear Solid 2: Substance for the Microsoft Xbox™ and gave it a score of 9.3 out of 10! See why they say, "If you own a Xbox, this is a must buy." Click here to read the full review.

**01.03.03**

IGN.com has announced their picks for IGN Editors' Choice Awards and Konami was honored for Metal Gear Solid 2: Substance for the Microsoft Xbox™. Click here to read the full press release!



**01.01.03**

From all of us here at Konami, we hope you had a great holiday and we wish everyone a happy New Year!

**12.19.02**

Konami posted a new webpage for World Soccer Winning Eleven 6 International for Sony PlayStation® 2. See why this game is the world's most popular soccer game! Click here to check out the game's stunning graphics and learn about it's ultra-realistic gameplay.

**12.17.02**

Konami is pleased to present all-new screenshots from one of our most anticipated titles for 2003: Silent Hill 3. Click here to see the screens, which reveal more of Silent Hill 3's eerie atmosphere and uniquely horrifying monsters, as well as the amazing graphical detail you can expect to see when the game hits early next year. (NOTE: These screens depict some violence, blood and gore.)

**12.11.02**

Konami has announced that Whiteout for the Microsoft Xbox™ and PC CD-ROM has shipped to stores nationwide. Just in time for the holidays, Whiteout captures all the thrills of high-speed snowmobile racing, including an array of powerful sleds, dozens of outrageous tricks and real SnoCross athletes. Click here to read the full press release!

**12.10.02**

Konami announced today that Frogger Beyond for the Nintendo GameCube™ and Microsoft's Xbox™ has shipped to retail outlets nationwide. With classic hop 'n dodge gameplay, pick-up-and-play controls, colorful graphics and brand new features, Frogger Beyond is a fun-filled adventure that the whole family can enjoy. Click here to read the full press release!

**12.09.02**

The fans have spoken, and Konami has listened. Now, the world's best-selling soccer sim is coming to North America for the Sony PlayStation® 2 in 2003! For a sneak peek at new screens of what gamers around the world consider to be the definitive "football" title, click here!

**12.06.02**

Solid Snake is back, and he's sneaking onto the Microsoft Xbox™ with all new modes and missions in Metal Gear Solid 2: Substance! To see the thrilling 60-second TV commercial that's currently airing nationwide, click below!

Narrowband (303 kb QuickTime)

Broadband (4.82 MB QuickTime)

**12.05.02**

The verdict is in, and gamers everywhere are in love the blistering firepower and run 'n' gun gameplay of Contra: Shattered Soldier for the Sony PlayStation® 2. Click below to watch the hilarious TV commercial for this action-packed blast!

Narrowband (146 kb QuickTime)

Broadband (2.32 MB QuickTime)

**12.04.02**

*Zone of the Enders: The 2nd Runner* is coming in 2003 and you've never seen anything like it! For a sneak peek at this fast and furious anime-inspired action game, check out this incredible trailer that was featured at The 2002 Tokyo Game Show!

Narrowband (1.38 MB QuickTime)

Broadband (21.6 MB QuickTime)

**12.02.02**

The holiday season is here, and Castlevania: Harmony of Disonance has been selected by our friends at TechTV as the GBA choice for their "Top 20 Gifts" list. Click here to learn more about critically acclaimed title and other great holiday picks!

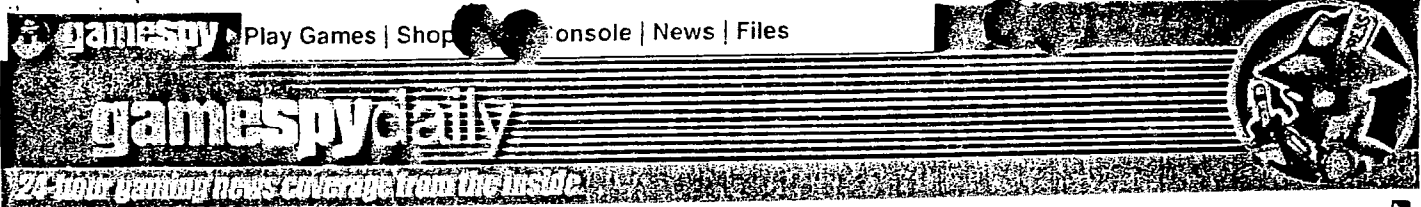
**11.26.02**

Konami announced today that Evolution Snowboarding for Sony PlayStation® 2 has shipped to retail outlets nationwide. Evolution Snowboarding offers players a unique gameplay experience that fuses traditional snowboard racing with over-the-top combat action. Click here to read the full press release!

**11.25.02**

Konami today announced that Yu-Gi-Oh! Forbidden Memories Premium Edition for Sony PlayStation® has shipped to retail outlets nationwide. Originally released in March 2002, Yu-Gi-Oh! Forbidden Memories is now available with three exclusive Yu-Gi-Oh! official game cards and a limited-edition metallic foil package. Click here to read the full press release or click below for pictures of what's in store for you!

EXHIBIT B



Screenshots -

More Screenshots

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- Sports
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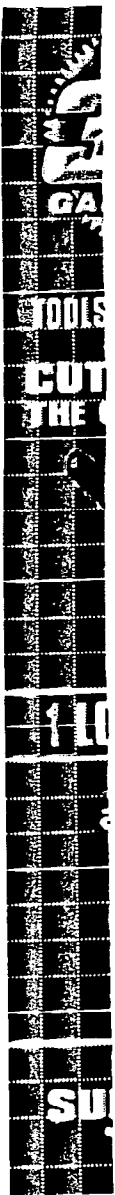


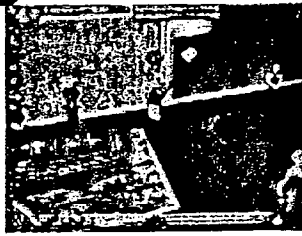
Casino Inc. Media

Konami takes a gamble with this strategy management sim for the PC.  
Friday January 17, 2003 | [Prophet](#)

We've got some fresh new screenshots from Konami's Casino Inc. (yesterday they revealed it as Casino Manager, but that was a working title). Scheduled for release on March 25, Casino Inc. lets you take the reigns of a budding entertainment & gambling venue. Check out the description below, and then check out these nifty screenshots for an idea of what this game is all about.

Take a gamble on your skills as a casino manager in the cutthroat business full of card sharks, hit men and escorts. With game play both inside the casino and outside in the surrounding city, Casino Inc. (working title) requires gamers to build, manage and expand their empire by whatever means necessary. Hire troublemakers to disrupt the competition, place advertising throughout the city and even set up shuttle routes or limo services to drive customers in. Casino Inc. features simple and accessible controls, in-depth tutorials, 120 unique characters and the widest variety of attractions yet.





#### Related Links

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- [Konami of America](#)
- [StrategyPlanet](#)
- [GameSpy](#)
- [GameSpyDaily](#)

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# EXHIBIT C

## KONAMI BLAZES A NEW TRAIL WITH HIGH-SPEED SNOWMOBILE RACING IN WHITEOUT™

### White-knuckle Snowmobile Racing Keeps The Adrenaline Pumping On Microsoft Xbox™ and PC CD-ROM

REDWOOD CITY, CA - December 10, 2002 - Konami of America Inc., announced today that *Whiteout* for the Microsoft Xbox™ and PC CD-ROM has shipped to stores nationwide. Just in time for the holidays, *Whiteout* captures all the thrills of high-speed snowmobile racing, including an array of powerful sleds, dozens of outrageous tricks and real SnoCross athletes.

The heart-pounding action begins as players jump into the boots of 12 different riders and choose from 14 powerful sleds -- each with a variety of upgrades available. Racing through 9 exhilarating trails, from Jackson Ridge to the Tundra Dome, players will uncover each track's hidden areas, shortcuts, interactive environments, destructible elements and special bonuses. Along the way, they'll pull off over 30 breathtaking aerial tricks on the scores of ramps, jumps and gaps found on each track. A wealth of power-ups, point multipliers and health recharges will help players stay ahead of the pack.

*Whiteout* is the only SnoCross game to feature snowmobile racing professionals. As players progress through the game they will have the opportunity to unlock well-known SnoCross stars like Nathan Titus, Justin Tate, Dennis Eckstrom and Trevor John.

*Whiteout* offers 5 distinct methods of play: Progressive Career Mode lets gamers live the life of a real SnoCross athlete, upgrading their sled to keep up with the competition; Arcade Mode challenges gamers to accomplish an extensive set of objectives to progress through the levels. Additional play modes include Quick-play, Multiplayer and Time Trial.

Rated T for Teen, *Whiteout* is available at an SRP of \$49.99 for Microsoft Xbox™ and \$29.99 for PC CD-ROM.

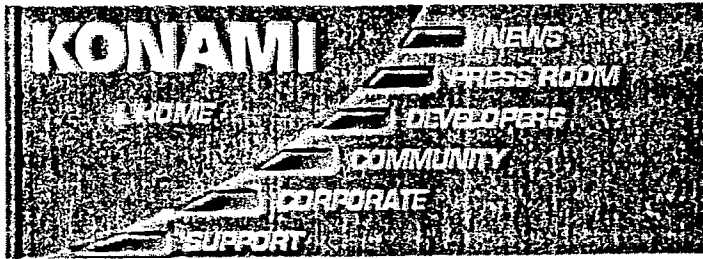
A version for the Sony PlayStation® 2 shipped to retail outlets nationwide on November 26, 2002 and is available at an SRP of \$39.99.

KONAMI(R), the KONAMI(r) logo and WHITEOUT(tm) are trademarks of KONAMICORPORATION. (c) 2002 KONAMI CORPORATION.



# EXHIBIT D





Check Out The Games -->

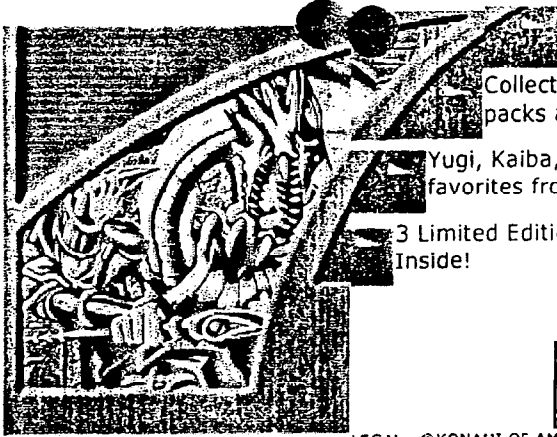


DESCRIPTION

The most accurate, advanced version of Duel Monsters arrives! The ultimate duel simulator based on the hit Trading Card Game and Television series! Duel against dozens of opponents from the TV show or challenge your friends. Import cards from the Official TCG to boost your deck. Complete your card collection and create the ultimate deck to enter the World Championship Tournament!

FEATURES

Over 800 cards full of new monsters, magic and traps!



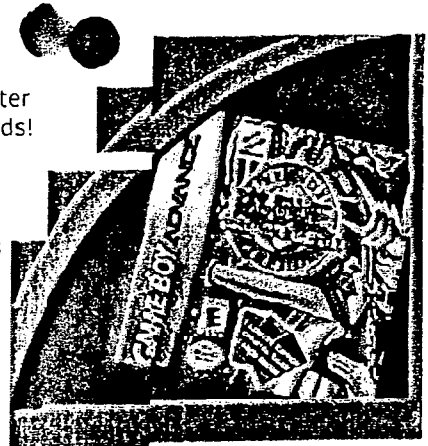
Collect over 12 kinds of Booster packs and find those rare cards!

Yugi, Kaiba, Joey and all your favorites from the TV show!

3 Limited Edition Official Game Cards Inside!



LEGAL ©KONAMI OF AMERICA. ALL RIGHTS RESERVED.





# EXHIBIT E



## Error

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 2**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

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

UGO NETWORKS, INC., )  
 )  
 Opposer, )  
 v. ) Opposition No. 91/153,578  
 ) Appln. Serial No.: 76/074,595  
 )  
 KONAMI CORPORATION, )  
 )  
 Applicant. )  
 )

OPPOSER'S FIRST REQUEST FOR PRODUCTION

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Applicant, KONAMI CORPORATION, is hereby requested to produce for inspection and copying at the offices of Willkie Farr & Gallagher, 787 Seventh Avenue, New York, New York 10019 within thirty (30) days after service hereof upon Applicant's counsel of record in this proceeding, or at such other time and place as may mutually be agreed upon, all documents and things herein requested which are within the possession, custody or control of Applicant or its counsel.

Dated: New York, New York  
January 29, 2003

Yours, etc.,

UGO NETWORKS, INC.

By: William M. Ried  
William M. Ried  
Natasha Snitkovsky  
Its Attorneys

WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, NY 10019-6099  
(212) 728-8000

COPY SENT TO  
DOCKETING  
On: 2/10/03  
By: Neggie P. [Signature]

## DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
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- G. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- H. As used herein, "document" has the broad meaning ascribed to that term by Rule 34 of the Federal Rules of Civil Procedure and refers to that writing, recording or other transcription of data of any kind from which information may be obtained, including all drafts and non-identical copies thereof, regardless of origin or location.
- I. As used herein, "identify" or "identity" shall be deemed to request the following information:
- 1) When used in reference to a natural person: his/her full name and last known address;
  - 2) When used in reference to any entity other than a natural person: its full name and the address of its principal place of business; and
  - 3) When used in reference to a document and any draft or non-identical copy thereof: its date, author(s) and the identity of its present location and present custodians.
- J. The term "trademark" means any word, name, symbol, design, shape, number, slogan or device, or any combination thereof, that is used by a person to identify and distinguish the person's goods and services from the goods and services of others. The use of the term "mark" is to be considered as the use of the term "trademark."



- K. "Including" shall be construed to mean "without any limitation." The word "all" includes "any" and vice versa. The past tense shall include the present tense and the present tense shall include the past tense so as to make the interrogatory inclusive, rather than exclusive.
- L. If Applicant claims attorney-client privilege or any other privilege in reference to any request for production, the allegedly privileged document need not be produced, but Applicant shall state with respect to such document sufficient information to explain the claim of privilege and permit the adjudication of the propriety of that claim, including the following information: (i) the date of the document; (ii) a description of the subject matter of the document; and (iii) the name(s) and address(es) of each person who has prepared, received and/or had possession, custody or control of the document or a copy thereof.
- M. Each responsive document shall be produced as its has been kept in the usual course of business or shall be organized and labeled to correspond with the individual request(s) to which it is responsive. If there are no documents responsive to any particular request, such information shall be set forth in writing.
- N. If any responsive document is not being produced because it has been destroyed, discarded or returned to a place outside of the possession, custody or control of Applicant, Applicant shall provide the date and a description of the form and contents of the document and shall further identify (by name and last known address) all persons known or believed to have had a copy of the document at any time.

- O. In addition to providing supplementary and amended responses as required by Rule 26(e) of the Federal Rules of Civil Procedure, Opposer requests that, if Applicant subsequently identifies additional documents responsive to any request herein, it produce such documents to Opposer's attorneys promptly. If Applicant is not agreeable for any reason to providing such supplementary and amended responses, Opposer requests that Applicant so advise Opposer's attorneys at the time it serves its original response to these requests.
- P. All documents produced should be stamped with a series of sequential numbers and/or letters, commonly known as "bate stamping."

#### REQUESTS

1. All documents identified in response to Opposer's First Set of Interrogatories, dated January 29, 2003.
2. Documents and things sufficient to describe Applicant's business, including but not limited to, annual reports, public filings, brochures, advertisements and promotional materials.
3. All documents and things supporting Applicant's use of Applicant's Mark as of June 2000 with respect to "computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers" (International Class 9).

4. All documents reflecting the date of first use of Applicant's Mark and date of first use of Applicant's Mark in Commerce on or in connection with each type of goods or services upon which use has commenced.

5. All documents and things that picture, refer to or describe products or services bearing Applicant's Mark including, without limitation, World Wide Web pages, tags, labels, containers, brochures, catalogs, price lists, point-of-purchase materials, advertisements, promotional materials, story boards, photo boards, scripts and radio and television advertisements.

6. Samples of each item of advertising or promotional material that describes services offered or planned to be offered under Applicant's Mark.

7. All documents pertaining to the adoption, creation, selection, design and/or drafting of Applicant's Mark, including trademark searches and correspondence from trademark search companies, design firms, advertising agencies, advertising media and suppliers.

8. All documents relating or referring to the decision by Applicant to adopt Applicant's Mark in any form or combination for any goods or services.

9. All documents relating or referring to other marks which Applicant has considered adopting in lieu of the adoption of Applicant's Mark.

10. All documents relating or referring to Applicant's filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark or any mark which incorporates Applicant's Mark, including communications and correspondence Applicant has had with the United States Patent and Trademark Office or any Secretary of State.

11. All correspondence between Applicant and any person responsible for the filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark.

12. Documents sufficient to show the dollar and unit volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year since such goods or services were first sold or offered for sale.

13. Documents sufficient to show the projected volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year for which projections have been made.

14. Documents sufficient to show the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first sold or offered for sale.

15. Documents sufficient to show Applicant's projected expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such services were first sold or offered for sale.

16. All documents, including communications and correspondence, Applicant has received from or transmitted to anyone concerning Applicant's Mark, its use, advertisement, promotion or display.

17. All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant's Mark or the term "YU-GI-OH."

18. All documents reflecting the public's recognition of Applicant's Mark.

19. All documents and things which identify or describe the types of entities to which Applicant's services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

20. All documents relating to or referring to and/or demonstrating the channels of distribution through which Applicant's services are marketed and sold or proposed to be marketed and sold.

21. Minutes and notes from any meeting of Applicant or attended by Applicant referring to Applicant's Mark and/or Opposer's Mark.

22. All documents referring to (a) the media in which Applicant's services designated by Applicant's Mark or proposed to be designated by Applicant's Mark are advertised or promoted; (b) the nature of Applicant's advertising or promotion of services designated or proposed to be designated by Applicant's Mark; and (c) the extent of Applicant's advertising or promotion of services designated by or proposed to be designated by Applicant's Mark in such media.

23. Representative samples of all advertising materials used or under consideration for use by Applicant bearing or relating to Applicant's Mark, including all pre-production drafts, of all advertising and promotional materials, including catalogs, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, telephone book advertisements, World Wide Web sites and radio and television spots.

24. All documents and things which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

25. All documents and things which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

26. All documents and things which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

27. All documents and things which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

28. All documents and things which support Applicant's first affirmative defense, dated December 27, 2002.

29. All documents and things which support Applicant's second affirmative defense, dated December 27, 2002.

30. All documents and things which support Applicant's third affirmative defense, dated December 27, 2002.

31. All documents and things which support Applicant's fourth affirmative defense, dated December 27, 2002.

32. All documents and things which support Applicant's fifth affirmative defense, dated December 27, 2002.

33. All documents and things which support Applicant's sixth affirmative defense, dated December 27, 2002.

34. All documents and things which support Applicant's seventh affirmative defense, dated December 27, 2002.

35. All documents and things relating or referring in detail to each incidence of confusion, suspicion, mistake, belief or deception between Applicant's Mark and Opposer's Mark or between Applicant and Opposer or otherwise as to the source of Applicant's products or services.

36. All documents and things relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark and actual or likely confusion between Opposer and Applicant or Opposer's Mark and Applicant's Mark, including but not limited to surveys, studies, reports, market research tests and memoranda.

37. All documents which refer or relate to the date and circumstances under which Applicant first learned of the use by Opposer of Opposer's Mark.

38. All documents and things relating or referring to Applicant's knowledge, including its earliest knowledge, of Opposer's use and advertisement of Opposer's Mark.

39. All other documents and things in Applicant's custody, possession or control, relating or referring to Opposer's Mark.

40. All correspondence between Applicant and any of Applicant's predecessors in interest relating or referring to Applicant's Mark or Opposer's Mark.

41. All documents and things relating to Applicant's provision or intended provision of computer games and/or video games under Applicant's Mark.

42. For each person whom Applicant intends to rely upon as an expert witness, all documents the expert has reviewed or relied upon in formulating his or her opinion and all documents the expert will assert supports each of his or her opinions.

43. All documents reflecting, referring to or relating to Applicant's acquisition of the right to use or register Applicant's Mark from another entity.

44. All documents reflecting, referring to or relating to a statement or opinion ever received by Applicant from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by another entity.

45. All agreements or other indicia of understanding (including, but not limited to, licenses and agency, distributorship and joint venture agreements) with any entity concerning use of Applicant's Mark or to any plans by Applicant to consider or commence licensing or other exploitation by third parties of Applicant's Mark.

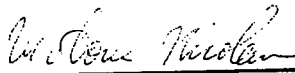
46. All documents relating to any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark or the term "YU-GI-OH."



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST REQUEST FOR PRODUCTION was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

Jeffrey H. Kaufman  
Brian B. Darville  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
Fax (703) 413-2220

---

Victoria Nicolau

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 3**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

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

UGO NETWORKS, INC., )  
 )  
 Opposer, )  
 )  
 v. ) Opposition No. 91/153,578  
 ) Appln. Serial No.: 76/074,595  
 )  
 KONAMI CORPORATION, )  
 )  
 Applicant. )  
 \_\_\_\_\_ )

OPPOSER'S FIRST REQUEST FOR ADMISSIONS

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Opposer, UGO NETWORKS, INC., requests that Applicant, KONAMI CORPORATION, make the following admissions within thirty (30) days after service hereof upon Applicant's counsel of record in this proceeding.

Dated: New York, New York  
January 29, 2003

Yours, etc.,

UGO NETWORKS, INC.

By: Natasha Snitkovsky  
William M. Ried  
Natasha Snitkovsky  
Its Attorneys

WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, NY 10019-6099  
(212) 728-8000

COPY SENT TO  
DOCKETING

On: 2/4/03  
By: meggie P. 10/5

## DEFINITIONS AND INSTRUCTIONS

- A. As used herein, "Opposer" refers to Opposer, UGO NETWORKS, INC., and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents or representatives thereof.
- B. As used herein, "Applicant" refers to Applicant, KONAMI CORPORATION, and all parent, subsidiary, predecessor and/or successor entities, divisions, employees, agents and representatives thereof.
- C. As used herein, "Applicant's Mark" refers collectively to the mark represented by Application No. 76/074,595 in the United States Patent and Trademark Office and to the design mark consisting of the term "Yu-Gi-Oh" in stylized Kanji characters as used by Applicant in any form alone or with another word or design.
- D. As used herein, "Opposer's Mark" refers individually and collectively to the mark UGO, as used by Opposer or Opposer's predecessor in interest, in block letter or stylized form, including as represented in Registration Nos.: 2,450,661; 2,519,204; and 2,562,837.
- E. As used herein, "Commerce" refers to commerce regulable by Congress, as defined in 15 U.S.C. § 1127.
- F. The singular and plural forms are used herein interchangeably, as are the masculine and feminine forms. Additionally, the terms "and" and "or" are meant as both conjunctive and disjunctive.

- G. As used herein, the terms "entity" and "person" include natural persons, governmental entities, organizations, corporations, partnerships, associations, joint ventures and any other individual or group of individuals that has the purpose of conducting or, in fact, conducts business.
- H. If Applicant claims attorney-client privilege or any other privilege in reference to any admission, Applicant shall state with respect to such admission sufficient information to explain the claim of privilege to permit the adjudication of the propriety of that claim.

#### REQUESTS FOR ADMISSIONS

1. Applicant did not offer for sale in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
2. Applicant did not sell or provide in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
3. Applicant did not promote or advertise in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.
4. Applicant had knowledge of Opposer's use of Opposer's Mark prior to June 2000.
5. Applicant currently has knowledge of Opposer's use of Opposer's Mark.
6. Applicant did not hire any advertising or promotional firm to advertise or promote goods and/or services under Applicant's Mark prior to June 2000.

7. Applicant filed its intent to use Application Serial No. 76/074,595 for Applicant's Mark after Opposer had commenced use of Opposer's Mark.

8. Applicant's date of first use of Applicant's Mark is subsequent to Opposer's first use of Opposer's Mark covered under Registration Nos. 2,450,661; 2,519,204; and 2,562,837.

9. Applicant's Mark is substantially similar to Opposer's Mark.

10. The goods or services offered under Applicant's Mark are substantially similar to the goods or services offered under Opposer's Mark.

11. Applicant markets video games under Applicant's Mark.

12. Applicant markets computer games under Applicant's Mark.

13. Applicant promotes and advertises its goods and/or services throughout the United States by means of, *inter alia*, the Internet.

14. Applicant has a Web site at the URL <www.konami.com>.

15. Attached as Exhibit A is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

16. Attached as Exhibit B is a true and correct printout of a Web page at the URL <www.gamespydaily.com/news/screenshots.asp?id=4581> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

17. Attached as Exhibit C is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

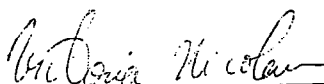
18. Attached as Exhibit D is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

19. Attached as Exhibit E is a true and correct printout of a Web page at the URL <www.esrb.com/error.asp?404;http://www.esrb.com/esrb\_history.asp> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing OPPOSER'S FIRST REQUEST FOR ADMISSIONS (with Exhibits A-E) was served on counsel for Applicant, this 29th day of January, 2003, by sending same via First Class Mail, postage prepaid, to:

Jeffrey H. Kaufman  
Brian B. Darville  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
Fax (703) 413-2220

  
Victoria Nicolau



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 4**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

**From:** Jeffrey Kaufman  
**To:** "nsnitkovsky@willkie.com".GWIA.OSGW  
**Date:** 2/5/03 9:40AM  
**Subject:** Re: UGO v. Konami

Natasha:

Thanks for your e-mail and phone call yesterday.

Konami will consent to a 30-day extension of the time for UGO Networks to respond to the discovery requests. We ask, however, that UGO Networks, in turn, grant Konami a 30-day extension to answer the discovery your recently sent us, and that the parties agree that UGO Networks will consent to an extension of the discovery period (if Konami later so requests), of at least 30-days.

Please confirm that the above is acceptable.

Finally, as I mentioned when we spoke, this may be a good time to see if this case can be settled, before either party spends too much time on discovery responses. Perhaps I can speak with your colleague to see his thoughts on a settlement.

Jeff Kaufman

Jeffrey H. Kaufman  
Oblon, Spivak  
NEW ADDRESS as of January 6, 2003:  
1940 Duke Street, Alexandria, VA 22314 USA  
voice 1-703-412-6404 fax 1-703-413-2220  
jkaufman@oblon.com www.oblon.com

>>> "Snitkovsky, Natasha" <nsnitkovsky@willkie.com> 02/04/03 02:08PM >>>  
Dear Mr. Kaufman,

Further to our telephone conversation yesterday, please confirm whether your client is agreeable to granting UGO an extension of 30 days to respond to your discovery requests, making the new deadline March 8, 2003.

We appreciate your cooperation in this matter and look forward to hearing from you.

Very truly yours,

Natasha Snitkovsky  
Willkie Farr & Gallagher  
787 Seventh Avenue  
New York, NY 10019  
212-728-8180  
212-728-9180 (fax)  
[nsnitkovsky@willkie.com](mailto:nsnitkovsky@willkie.com)

\*\*\*\*\*

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of Willkie Farr & Gallagher presumptively contain information that is confidential and legally privileged; e-mail messages to non-clients are normally confidential and may also be legally privileged. Please do not read, copy, forward or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it back to the sender and delete it completely from your computer system.

\*\*\*\*\*

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 5**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

# WILLKIE FARR & GALLAGHER

787 Seventh Avenue  
New York, NY 10019-6099  
Tel: 212 728 8000  
Fax: 212 728 8111

February 5, 2003

VIA FACSIMILE (703) 413-2220

Mr. Jeffrey H. Kaufman  
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, VA 22314

Re: UGO Networks, Inc. v. Konami Corporation  
Opposition No. 91/153,578 against YU-GI-OH Design Mark in  
Stylized Kanji Characters, Application Serial No. 76/074,595

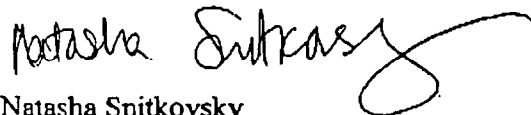
Dear Jeffrey:

Pursuant to our recent telephone conversations and email correspondence, we confirm that we have agreed that:

- the deadline for UGO to respond to Konami's discovery requests is extended by thirty (30) days to March 8, 2003;
- the deadline for Konami to respond to UGO's discovery requests is extended by thirty (30) days to March 30, 2003; and
- upon either party's later request, the parties will stipulate to extend the discovery and testimony periods by at least 30 days.

Thank you for your cooperation in this matter.

Very truly yours,



Natasha Snitkovsky

000930.10006/1162984.1

NEW YORK WASHINGTON, DC PARIS LONDON MILAN ROME FRANKFURT BRUSSELS

TOTAL P.02

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 6**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

2 31 344 MD-1094-224201-  
33

# WILLKIE FARR & GALLAGHER

WILLIAM M. RIED  
212 728 8729  
wried@willkie.com

787 Seventh Avenue  
New York, NY 10019-6099  
Tel: 212 728 8000  
Fax: 212 728 8111

March 7, 2003

VIA FACSIMILE (703) 413-2220

Jeffrey H. Kaufman, Esq.  
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, VA 22314

Re: UGO Networks, Inc. v. Konami Corporation  
Opposition No. 91/153,578 against YU-GI-OH Design Mark in  
Stylized Kanji Characters, Application Serial No. 76/074,595

Dear Jeff:

This will confirm that you agreed by telephone this afternoon to extend the deadline for UGO to respond to Konami's interrogatories, request for production and request for admissions for seven (7) days from March 7 to March 14, 2003;

Thank you for your cooperation in this matter.

Very truly yours,



William M. Ried

MAR-07-2003 15:31

46-101 OPP-4650

**FAX TRANSMISSION**

**WILLKIE FARR & GALLAGHER**

Date:

Time:

Total number of pages (including this page):

Please include Client/Matter No. below

FROM: William M. Ried

Room No.: 4652

Phone No.: (212) 728-8729

TO: Jeffrey H. Kaufman, Esq.

Fax No.:

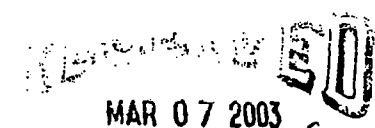
(703) 413-2220

Telephone No.: (703) 412-6404

City:

State:

J.K.



OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

**Confidentiality Note:**

The information contained in this facsimile ("fax") transmission is sent by an attorney or his/her agent, is intended to be confidential and for the use of only the individual or entity to which it is addressed. The information may be protected by attorney/client privilege, work product immunity, or other legal rules. If the reader of this message is not the intended recipient or agent responsible for delivering it to the intended recipient, you are hereby notified that any retention, dissemination, disclosure, distribution, copying, or other use of this fax is strictly prohibited. If you have received this fax in error, please notify us immediately by telephone in order to arrange for the destruction of the fax or its return to us at our expense. THANK YOU.

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Call

If Any Problems:

Receiving Fax Number:

Internal Use Only:

Client No.:

Matter No.:

Attorney No.:

Please check here if you want faxed document returned to you *instead of* sent to Records Department.



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 7**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

## INTERROGATORIES

### INTERROGATORY NO. 1:

Identify each person with knowledge concerning Applicant's use (past, current or planned) of Applicant's Mark in Commerce, including the first use in Commerce of Applicant's Mark.

### RESPONSE

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

### INTERROGATORY NO. 2:

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

### RESPONSE

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**INTERROGATORY NO. 3:**

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**INTERROGATORY NO. 4:**

Identify the date of first use of Applicant's Mark in Commerce, if any, and each document upon which Applicant will rely to establish such date.

**RESPONSE**

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**INTERROGATORY NO. 5:**

If Applicant used any variation of Applicant's Mark in Commerce prior to the date identified in response to Interrogatory No. 4, identify each such variation and the manner and date of first use of such variation.

**RESPONSE**

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**INTERROGATORY NO. 6:**

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and
- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

**INTERROGATORY NO. 7:**

If Applicant's offer for sale and sale in Commerce of each product or service identified in response to Interrogatory No. 6 has not been continuous from the date of first use of Applicant's Mark, identify the length of such cessation and explain the reason for any cessation.

**RESPONSE**

Applicant's use of its mark in commerce has been continuous from the date of first use.

**INTERROGATORY NO. 8:**

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**INTERROGATORY NO. 9:**

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

**RESPONSE**

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**INTERROGATORY NO. 10:**

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

**INTERROGATORY NO. 11:**

Identify the type of individuals, corporations or other entities to whom Applicant's products and services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

**RESPONSE**

Applicant's products and services are sold and marketed to the consuming public.

**INTERROGATORY NO. 12:**

Identify the marketing channels through which Applicant's products and services are marketed and promoted or proposed to be marketed and promoted under Applicant's Mark.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it is duplicative of Interrogatory 6(b).

See Applicant's answer to Interrogatory No. 6(b).

**INTERROGATORY NO. 13:**

Identify the channels of distribution through which Applicant's products and services are sold or proposed to be sold under Applicant's Mark.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it is duplicative of Interrogatory 6(b) and Interrogatory No. 12.

See Applicant's answers to Interrogatory No. 6(b) and Interrogatory No. 12.

**INTERROGATORY NO. 14:**

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**INTERROGATORY NO. 15:**

If Applicant has ever received a statement or opinion from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of



confusion between Applicant's Mark and a trademark, service mark or trade name used by any other entity, identify:

- a. the entity that rendered the statement or opinion;
- b. each person acting for Applicant who received a written or oral communication of the statement or opinion;
- c. the date(s) Applicant received written or oral communication(s) of the statement or opinion; and
- d. each and every document reflecting, referring to or relating to such statement or opinion.

### **RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the forgoing objections, Applicant states that it is aware of no such information, with the exception of a search report to be produced in connection with Applicant's Responses and Objections to Opposer's First Request for Production of Documents.

### **INTERROGATORY NO. 16:**

If Applicant has ever conducted or commissioned or is otherwise aware of any survey, sampling, focus group or other formal or informal study, concerning the recognition or reaction to Applicant's Mark or goods or services bearing Applicant's Mark or to Opposer's Mark or goods or services bearing Opposer's Mark, identify:

- a. the date of the survey, sampling, focus group or other study;
- b. the individuals involved in reporting of, designing and conducting the survey, sampling, focus group or other study;
- c. the results of the survey, sampling, focus group or other study; and
- d. each and every document reflecting or referring or relating to the survey, sampling, focus group or other study.

**RESPONSE**

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant states that it is aware of no such information.

**INTERROGATORY NO. 17:**

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

**RESPONSE**

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objection, Applicant states that it is aware of no such documents.

**INTERROGATORY NO. 18:**

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements), with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

**RESPONSE**

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**INTERROGATORY NO. 19:**

If Applicant has ever objected to any entity's use or registration of any trade name, trademark, service mark or descriptive term on the basis of Applicant's Mark, summarize the substance of each such objection and the resolution of the objection.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Subject to and without waiving the foregoing objections, Applicant states that it objected to a number of applications for federal trademark registration filed by Syconet.com incorporating the term YUGI-OH. The Syconet.com applications that were the subject of Applicant's objections were subsequently abandoned.

**INTERROGATORY NO. 20:**

If Applicant has ever been a party to, or otherwise participated in, any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark, state the full caption of the litigation or proceeding (including the names of all parties, commencement date, venue and docket number) and describe the resolution or status of the litigation or proceeding.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning

of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waving the foregoing objections, Applicant states that it is aware of no such litigation or administrative proceeding.

**INTERROGATORY NO. 21:**

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant refers to its response to Request No. 4 of Opposer's First Request for Admissions.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**INTERROGATORY NO. 22:**

Identify in detail each incidence, within Applicant's knowledge, of confusion or mistake between Applicant's Mark and Opposer's Mark, or between Applicant and Opposer, including the person(s) confused and each person affiliated with Applicant who has knowledge of such incidents.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Without waiving the foregoing objection, Applicant states that it is not aware of any such confusion.

**INTERROGATORY NO. 23:**

As to each person whom Opposer intends to rely upon as an expert witness, state:

- a. the qualifications of the expert;
- b. the subject matter on which the expert is expected to testify;
- c. the substance of the facts and opinions to which the expert is expected to testify;  
and
- d. a description of each document the expert has reviewed or relied upon in formulating his or her opinion and each and every document the expert will assert supports each of his or her opinions.

**RESPONSE**

Applicant is not aware of a person that Opposer intends to rely on as an expert witness.

To the extent this interrogatory is understood to refer to Applicant instead of Opposer, Applicant states that it has not yet retained an expert witness in this matter.

**INTERROGATORY NO. 24:**

State fully and completely all facts which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.

## **RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

## **INTERROGATORY NO. 25:**

State fully and completely all facts which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

## **RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 26:**

State fully and completely all facts which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 27:**

State fully and completely all facts which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.



**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 28:**

State fully and completely all facts which support Applicant's first affirmative defense, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 29:**

State fully and completely all facts which support Applicant's second affirmative defense, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 30:**

State fully and completely all facts which support Applicant's third affirmative defense, dated December 27, 2002.

## **RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

## **INTERROGATORY NO. 31:**

State fully and completely all facts which support Applicant's fourth affirmative defense, dated December 27, 2002.

## **RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 32:**

State fully and completely all facts which support Applicant's fifth affirmative defense, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 33:**

State fully and completely all facts which support Applicant's sixth affirmative defense, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 34:**

State fully and completely all facts which support Applicant's seventh affirmative defense, dated December 27, 2002.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**INTERROGATORY NO. 35:**

With respect to each interrogatory herein, identify the person or persons who furnished information regarding the answers given.

**RESPONSE**

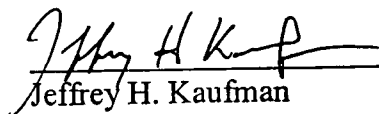
Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Applicant objects to this interrogatory to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

Respectfully submitted,

KONAMI CORPORATION

  
\_\_\_\_\_  
Jeffrey H. Kaufman

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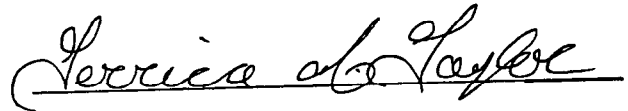
Dated: April 25, 2003

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served on counsel for Opposer, this 25<sup>th</sup> day of April, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

A handwritten signature in cursive script, reading "Terrence de Lape", is written over a horizontal line.



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 8**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

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Brian B. Darville  
Jason A. Cody  
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**Counsel for Applicant  
Konami Corporation**

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91/153,578
v.	)	Appln. Serial No.: 76/074,595
	)	
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
	)	

**APPLICANT'S OBJECTIONS AND RESPONSES TO  
OPPOSER'S FIRST REQUEST FOR PRODUCTION**

Pursuant to Rule 34, Fed.R.Civ.P. and Trademark Rules 2.116(a) and 2.120(d)(2), Applicant, Konami Corporation, makes the following objections and responses to Opposer's First Request for Production of Documents and Things ("Opposer's Requests").

These objections and responses are based upon the best documents and information presently available to Applicant and are made without prejudice to the right of Applicant to make additional or modified objections and responses should better or further documentation or information subsequently become available to Applicant. These responses also are made without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Applicant; and these responses do not constitute an admission of competence or admissibility of evidence of evidence or a waiver of objection on any grounds.

**GENERAL OBJECTIONS**

Applicant objects to the Definitions and Instructions forming a part of Opposer's First Request for Production of Documents and Things as overly broad, harassing, unduly burdensome

and as imposing greater obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

### REQUESTS

#### REQUEST NO. 1

All documents identified in response to Opposer's First Set of Interrogatories, dated January 29, 2003.

#### RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant will produce those representative, relevant, non-confidential, non-privileged documents responsive to this request.

#### REQUEST NO. 2

Documents and things sufficient to describe Applicant's business, including but not limited to, annual reports, public filings, brochures, advertisements and promotional materials.

## RESPONSE

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Without waiving the foregoing objections, Applicant will submit copies of its Annual Reports for the past five years.

## REQUEST NO. 3

All documents and things supporting Applicant's use of Applicant's Mark as of June 2000 with respect to "computer products, namely, computer games programs; video game cartridges; video game CD-ROMS; video output game units; computer game CD-ROMS; video game programs; video game programs for use with television sets; video game machines for use with television sets; game-playing equipment, namely, joysticks and game controllers" (International Class 9).

## RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

#### **REQUEST NO. 4**

All documents reflecting the date of first use of Applicant's Mark and date of first use of Applicant's Mark in Commerce on or in connection with each type of goods or services upon which use has commenced.

#### **RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

#### **REQUEST NO. 5**

All documents and things that picture, refer to or describe products or services bearing Applicant's Mark including, without limitation, World Wide Web pages, tags, labels, containers, brochures, catalogs, price lists, point-of-purchase materials, advertisements, promotional materials, story boards, photo boards, scripts and radio and television advertisements.

#### **RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST NO. 6**

Samples of each item of advertising or promotional material that describes services offered or planned to be offered under Applicant's Mark.

**RESPONSE**

Applicant refers to its response to Request No. 3.

**REQUEST NO. 7**

All documents pertaining to the adoption, creation, selection, design and/or drafting of Applicant's Mark, including trademark searches and correspondence from trademark search companies, design firms, advertising agencies, advertising media and suppliers.

**RESPONSE**

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

Without waiving the foregoing objections, Applicant will produce a copy of the results of a trademark availability search conducted in connection with the selection of Applicant's Mark.

#### **REQUEST NO. 8**

All documents relating or referring to the decision by Applicant to adopt Applicant's Mark in any form or combination for any goods or services.

#### **RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for documents pertaining to matters outside the United States and its territories. As such, this request is irrelevant to the claims or defenses of any party in this proceeding and as not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise



objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

**REQUEST NO. 9**

All documents relating or referring to other marks which Applicant has considered adopting in lieu of the adoption of Applicant's Mark.

**RESPONSE**

Applicant is aware of no documents that are responsive to this request.

**REQUEST NO. 10**

All documents relating or referring to Applicant's filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark or any mark which incorporates Applicant's Mark, including communications and correspondence Applicant has had with the United States Patent and Trademark Office or any Secretary of State.

**RESPONSE**

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise

objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### **REQUEST NO. 11**

All correspondence between Applicant and any person responsible for the filing and/or prosecution of any federal or state trademark or service mark application for Applicant's Mark.

### **RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request to the extent it seeks documents irrelevant to the claims or defenses of any party in this proceeding as the request is not reasonably calculated to lead to the discovery of admissible evidence.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### **REQUEST NO. 12**

Documents sufficient to show the dollar and unit volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year since such goods or services were first sold or offered for sale.

### **RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

**REQUEST NO. 13**

Documents sufficient to show the projected volume of Applicant's sales in the United States or in Commerce of goods or services designated by Applicant's Mark in each year for which projections have been made.

**RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

**REQUEST NO. 14**

Documents sufficient to show the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first sold or offered for sale.

**RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

**REQUEST NO. 15**

Documents sufficient to show Applicant's projected expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such services were first sold or offered for sale.

**RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information.

### REQUEST NO. 16

All documents, including communications and correspondence, Applicant has received from or transmitted to anyone concerning Applicant's Mark, its use, advertisement, promotion or display.

### RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### REQUEST NO. 17

All documents reflecting or referring or relating to communications between Applicant and any entity regarding use by a third-party of any mark allegedly identical or similar to Applicant's Mark or the term "YU-GI-OH."

### RESPONSE

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise

objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Subject to and without waiver of the foregoing objections, Applicant will produce non-privileged, non-confidential documents that are responsive to this request.

**REQUEST NO. 18**

All documents reflecting the public's recognition of Applicant's Mark.

**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

**REQUEST NO. 19**

All documents and things which identify or describe the types of entities to which Applicant's services designated by Applicant's Mark are sold or marketed or intended to be sold or marketed.

## RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

## REQUEST NO. 20

All documents relating to or referring to and/or demonstrating the channels of distribution through which Applicant's services are marketed and sold or proposed to be marketed and sold.

## RESPONSE

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

**REQUEST NO. 21**

Minutes and notes from any meeting of Applicant or attended by Applicant referring to Applicant's Mark and/or Opposer's Mark.

**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Applicant objects to this request on the basis that the information sought is publicly available and is therefore as readily accessible to Opposer as it is to Applicant.

**REQUEST NO. 22**

All documents referring to (a) the media in which Applicant's services designated by Applicant's Mark or proposed to be designated by Applicant's Mark are advertised or promoted; (b) the nature of Applicant's advertising or promotion of services designated or proposed to be designated by Applicant's Mark; and (c) the extent of Applicant's advertising or promotion of services designated by or proposed to be designated by Applicant's Mark in such media.

**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### **REQUEST NO. 23**

Representative samples of all advertising materials used or under consideration for use by Applicant bearing or relating to Applicant's Mark, including all pre-production drafts, of all advertising and promotional materials, including catalogs, circulars, leaflets, direct mail pieces, newspaper and magazine advertisements, telephone book advertisements, World Wide Web sites and radio and television spots.

### **RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### **REQUEST NO. 24**

All documents and things which support Applicant's denial of paragraph 10 of Opposer's Notice of Opposition, dated December 27, 2002.



**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or documents subject of the attorney work product doctrine. Such information will not be produced.

Applicant objects to this request as overly broad, harassing and unduly burdensome.

Applicant objects to this request on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

Applicant objects to this request to the extent that it seeks all evidence in support of Applicant's claims in this proceeding, as Applicant is not required to disclose the entirety of its proposed evidence in support of its case during discovery.

**REQUEST NO. 25**

All documents and things which support Applicant's denial of paragraph 11 of Opposer's Notice of Opposition, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 26**

All documents and things which support Applicant's denial of paragraph 12 of Opposer's Notice of Opposition, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 27**

All documents and things which support Applicant's denial of paragraph 13 of Opposer's Notice of Opposition, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 28**

All documents and things which support Applicant's first affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 29**

All documents and things which support Applicant's second affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 30**

All documents and things which support Applicant's third affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 31**

All documents and things which support Applicant's fourth affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 32**

All documents and things which support Applicant's fifth affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 33**

All documents and things which support Applicant's sixth affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 34**

All documents and things which support Applicant's seventh affirmative defense, dated December 27, 2002.

**RESPONSE**

See Response to Request No. 24.

**REQUEST NO. 35**

All documents and things relating or referring in detail to each incidence of confusion, suspicion, mistake, belief or deception between Applicant's Mark and Opposer's Mark or between Applicant and Opposer or otherwise as to the source of Applicant's products or services.

**RESPONSE**

Applicant is aware of no documents that are responsive to this request.

**REQUEST NO. 36**

All documents and things relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark and actual or likely confusion between Opposer and Applicant or Opposer's Mark and Applicant's Mark, including but not limited to surveys, studies, reports, market research tests and memoranda.

**RESPONSE**

Applicant is aware of no documents that are responsive to this request.

**REQUEST NO. 37**

All documents which refer or relate to the date and circumstances under which Applicant first learned of the use by Opposer of Opposer's Mark.

**RESPONSE**

Applicant has and continues to investigate the circumstances under which Applicant, or its related companies, first became aware of Opposer's use of Opposer's Mark. Applicant will supplement this response to the extent the investigation reveals non-privileged, non-confidential relevant documents.

**REQUEST NO. 38**

All documents and things relating or referring to Applicant's knowledge, including its earliest knowledge, of Opposer's use and advertisement of Opposer's Mark.

**RESPONSE**

See Response to Request No. 37.

**REQUEST NO. 39**

All other documents and things in Applicant's custody, possession or control, relating or referring to Opposer's Mark.

**RESPONSE**

Applicant is aware of no documents that are responsive to this request.

**REQUEST NO. 40**

All correspondence between Applicant and any of Applicant's predecessors in interest relating or referring to Applicant's Mark or Opposer's Mark.

**RESPONSE**

Applicant objects to this request on the basis that it is vague and ambiguous as it is not framed with reasonable particularity, as required by Rule 34(b), Fed.R.Civ.P.

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

#### **REQUEST NO. 41**

All documents and things relating to Applicant's provision or intended provision of computer games and/or video games under Applicant's Mark.

#### **RESPONSE**

Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

#### **REQUEST NO. 42**

For each person whom Applicant intends to rely upon as an expert witness, all documents the expert has reviewed or relied upon in formulating his or her opinion and all documents the expert will assert supports each of his or her opinions.

#### **RESPONSE**

Applicant is aware of no documents that are responsive to this request with the exception of the trademark search results referred to in response to Request No. 7.

### **REQUEST NO. 43**

All documents reflecting, referring to or relating to Applicant's acquisition of the right to use or register Applicant's Mark from another entity.

### **RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

### **REQUEST NO. 44**

All documents reflecting, referring to or relating to a statement or opinion ever received by Applicant from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by another entity.

### **RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Without waiving the foregoing objection, Applicant states that it is aware of no non-privileged documents that are responsive to this request.

### **REQUEST NO. 45**

All agreements or other indicia of understanding (including, but not limited to, licenses and agency, distributorship and joint venture agreements) with any entity concerning use of Applicant's Mark or to any plans by Applicant to consider or commence licensing or other exploitation by third parties of Applicant's Mark.

**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

**REQUEST NO. 46**

All documents relating to any litigation or administrative proceeding (other than the instant proceeding) related to the use or registration of Applicant's Mark or the term "YU-GI-OH."

**RESPONSE**

Applicant objects to this request to the extent that it calls for the production of attorney-client communications or materials subject to the attorney work-product doctrine. Such materials will not be produced.

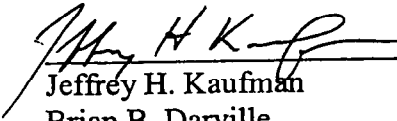
Applicant objects to this request as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only those documents which are sufficient to meet the needs of the request.

Applicant objects to this request as calling for the production of trade secret or other confidential research, development or commercial information. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential documents only after the entry of a suitable protective order by the Board.

Subject to and without waiving the foregoing objections, Applicant refers Opposer to its Response to Request No. 17.

Respectfully submitted,

KONAMI CORPORATION



---

Jeffrey H. Kaufman

Brian B. Darville

Amy C. Sullivan

OBLON, SPIVAK, McCLELLAND,

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Attorneys for Applicant

Dated: April 25, 2003

JHK/BBD/dlb/tmt (I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-POD.DOC)



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND REPOSSES TO OPPOSER'S FIRST REQUEST FOR PRODUCTION** was served on counsel for Opposer, this 25<sup>th</sup> day of April, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

  
\_\_\_\_\_

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 9**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
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Alexandria, Virginia 22314  
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**Counsel for Applicant  
Konami Corporation**



overly broad, harassing, unduly burdensome and as imposing greater obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

### REQUESTS FOR ADMISSIONS

#### REQUEST NO. 1

Applicant did not offer for sale in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

#### RESPONSE

Admit.

#### REQUEST NO. 2

Applicant did not sell or provide in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

#### RESPONSE

Admit.

#### REQUEST NO. 3

Applicant did not promote or advertise in Commerce any goods bearing or services designated by Applicant's Mark prior to June 2000.

#### RESPONSE

Admit.

#### REQUEST NO. 4

Applicant had knowledge of Opposer's use of Opposer's Mark prior to June 2000.

#### RESPONSE

Denied as to Konami Corporation, Japan. Applicant has and continues to make reasonable inquiry into the information known or readily available to Applicant and this information is currently insufficient to enable Applicant to admit or deny this request with

respect to Applicant's related companies. Applicant reserves the right to supplement this response should additional information become available.

**REQUEST NO. 5**

Applicant currently has knowledge of Opposer's use of Opposer's Mark.

**RESPONSE**

Admit.

**REQUEST NO. 6**

Applicant did not hire any advertising or promotional firm to advertise or promote goods and/or services under Applicant's Mark prior to June 2000.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Investigation of the matter is ongoing. Applicant reserves the right to supplement this request should additional information become available.

**REQUEST NO. 7**

Applicant filed its intent to use Application Serial No. 76/074,595 for Applicant's Mark after Opposer had commenced use of Opposer's Mark.

**RESPONSE**

Admit. Applicant specifically denies that it had knowledge of Opposer's Mark at the time it filed Application Serial No. 76/074,595 for Applicant's Mark, subject to the qualification in response to Request No. 4.

**REQUEST NO. 8**

Applicant's date of first use of Applicant's Mark is subsequent to Opposer's first use of Opposer's Mark covered under Registration Nos. 2,450,661; 2,519,204; and 2,562,837.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request.

**REQUEST NO. 9**

Applicant's Mark is substantially similar to Opposer's Mark.

**RESPONSE**

Deny.

**REQUEST NO. 10**

The goods or services offered under Applicant's Mark are substantially similar to the goods or services offered under Opposer's Mark.

**RESPONSE**

Deny.

**REQUEST NO. 11**

Applicant markets video game software under Applicant's Mark.

**RESPONSE**

Deny.

**REQUEST NO. 12**

Applicant markets computer games under Applicant's Mark.

**RESPONSE**

Deny.

**REQUEST NO. 13**

Applicant promotes and advertises its goods and/or services throughout the United States by means of, inter alia, the Internet.

**RESPONSE**

Admit.

**REQUEST NO. 14**

Applicant has a Web site at the URL <www.konami.com>.

**RESPONSE**

Admit.

**REQUEST NO. 15**

Attached as Exhibit A is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

**REQUEST NO. 16**

Attached as Exhibit B is a true and correct printout of a Web page at the URL <www.gamespydaily.com/news/screenshots.asp?id=4581> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

**REQUEST NO. 17**

Attached as Exhibit C is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

**REQUEST NO. 18**

Attached as Exhibit D is a true and correct printout from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

**REQUEST NO. 19**

Attached as Exhibit E is a true and correct printout of a Web page at the URL <www.esrb.com/error.asp?404;http://www.esrb.com/esrb history.asp> linking from Applicant's Web site at the URL <www.konami.com> as it appeared on or about January 28, 2003.

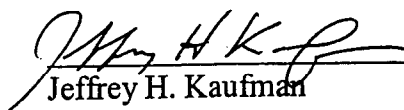


**RESPONSE**

After a reasonable inquiry, the information known or readily available to Applicant is insufficient to enable Applicant to admit or deny this Request. Applicant is unable to determine whether the attachment is a true and correct printout from Applicant's web site on a particular date.

Respectfully submitted,

KONAMI CORPORATION



Jeffrey H. Kaufman

Brian B. Darville

Amy C. Sullivan

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax (703) 413-2220

Attorneys for Applicant

Dated: April 25, 2003

JHK/BBD/dlb/tmt {I:\atty\JHK\Konami\Filings\1394-231349US-Adm.doc}

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S FIRST REQUEST FOR ADMISSIONS** was served on counsel for Opposer, this 25<sup>th</sup> day of April, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

*Terence M. Taylor*

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

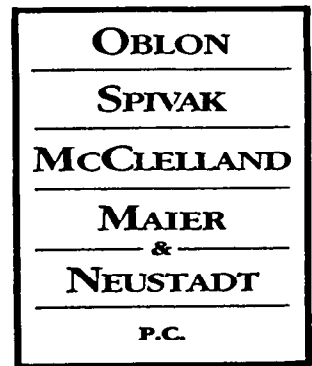
UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 10**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
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**Counsel for Applicant  
Konami Corporation**



June 16, 2003

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, NY 10019-6099

ATTORNEYS AT LAW  
JEFFREY H. KAUFMAN  
(703) 412-6404  
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*  
Opposition No. 153,578  
U.S. Appl. Serial No. 76/074,595  
Our Ref.: 231349US-1394-229237-33

Dear Mr. Ried and Ms. Snitkovsky:

We have reviewed Opposer's Responses to Applicant's Requests for Admissions, Opposer's Responses to Applicant's First Document Requests and Opposer's Responses to Applicant's First Set of Interrogatories. We find these responses to be deficient in several respects. We write in a good faith effort to resolve these discovery disputes before bringing them before the Board for resolution, as required by Trademark Rule 2.120(e).

***Opposer's Responses to Applicant's First Set of Interrogatories***

**INTERROGATORY NO. 2**

Identify (by name and title) each of Opposer's supervisory employees responsible for the promotion, sale and distribution of Opposer's Services promoted and/or sold in connection with Opposer's Marks.

**RESPONSE**

J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development.

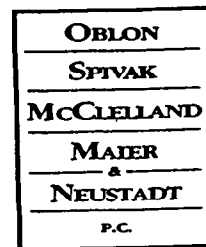
**INTERROGATORY NO. 17**

Identify those persons having the most knowledge of any market research (including surveys, studies, investigations and focus group inquiries) conducted by or on behalf of Opposer regarding any of Opposer's Marks.

**RESPONSE**

See response No. 2, *supra*

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
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**INTERROGATORY NO. 24**

Identify each person who has supplied documents for information for, or who has participated in responding to, these interrogatories, Applicant's First Request for Production of Documents and Things and Applicant's First Requests for Admissions.

**RESPONSE**

J. Moses, President and CEO; Michael McCracken, Chief Financial Officer and Executive Vice President, Corporate Development; Alexander Loucopoulos, Vice President, Corporate Development; Sabina Sudan, outside consultant; Linda Wright, Assistant; Jerry Lyons, former Chief Operation Office of UGO Networks, Inc.

Opposer's responses to Interrogatory Nos. 2, 17 and 24 are incomplete. Please provide the contact information for those individuals identified above sufficient for serving a subpoena.

**INTERROGATORY NO. 4**

Identify the person(s) who first conceived of Opposer's Marks for use by Opposer.

**RESPONSE**

Ambiguity Objection to the extent it is unclear whether this interrogatory seeks to identify the person(s) who first conceived of the UGO mark or those who first considered Opposer's acquisition and/or current use of the mark.

Opposer's response to Interrogatory No. 4 is non-responsive. Please identify the individual(s) who first conceived of the UGO mark and the individual(s) who first considered Opposer's acquisition and/or current use of the UGO mark. Opposer should identify such individuals and provide contact information sufficient for serving a subpoena.

**INTERROGATORY NO. 12**

State whether Opposer first had knowledge of Applicant's use or registration of Applicant's Mark.

**RESPONSE**

Ambiguity Objection to the extent that Opposer is not presently aware of Applicant's registration of Applicant's Mark. As to Applicant's use of Applicant's Mark, Opposer became aware of such use at least as early as September 1, 2001.

Opposer's response to Interrogatory No. 12 is non-responsive. Please state when Opposer first learned of Applicant's U.S. Application Serial No. 76/074,595.

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Natasha Snitkovsky, Esq.  
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**INTERROGATORY NO. 13**

State whether Opposer considered the issue of, and/or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks.

**RESPONSE**

Privilege Objection. Without waiving this objection, Opposer's notice of opposition in this proceeding states Opposer's position regarding the likelihood of confusion between Applicant's Mark and Opposer's Marks.

Opposer's response to Interrogatory No. 13 is non-responsive. Opposer fails to state whether it considered the issue of, or received any opinions concerning, a likelihood of confusion between Applicant's Mark and any of Opposer's Marks. Opposer may not rely on the legal assertions in its Notice of Opposition to respond to Applicant's requests for specific factual information. The answer to this interrogatory should consist, at a minimum, of a "yes" or "no".

**INTERROGATORY NO. 18**

Identify each reported instance of actual confusion, mistake, or deception known to Opposer between Opposer's Services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

**RESPONSE**

Ambiguity Objection as to the definition of "reported."

Opposer's response to Interrogatory No. 18 is non-responsive. The term "reported" should be given its ordinary meaning in the English language. Accordingly, Interrogatory No. 18 is not ambiguous. Please supplement Opposer's response to Interrogatory No. 18 to describe each instance of actual confusion, mistake, or deception known to Opposer between Opposer's services promoted or sold in connection with any of Opposer's Marks and Applicant's Products promoted or sold in connection with Applicant's Mark.

**INTERROGATORY NO. 20**

Identify the channels of distribution and the geographical areas of trade within which Opposer's Services are or are intended to be promoted and/or sold in connection with Opposer's Marks.

**RESPONSE**

Ambiguity Objection. Proprietary Information Objection as to future plans. Relevance Objection as to use outside the United States. Without waiving these objections, Opposer responds that its services have been and are distributed via the Internet throughout the United States and the rest of the world. UGO's network has reached up to over 10 million unique visitors in a single month.



William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
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Opposer's response to Interrogatory No. 20 may be incomplete. Please confirm that Opposer's services have been and are distributed solely via the Internet throughout the geographic territories described.

**INTERROGATORY NO. 23**

Identify the meaning and commercial impression of Opposer's Marks.

**RESPONSE**

Ambiguity Objection as to the meaning of "meaning and commercial impression." Without waiving this objection, Opposer's Marks have come to signify Opposer ad Opposer's goods and services to a broad community of Internet users. For example, in May 2001, Opposer won *Revolution Magazine's* award for Best Online PR, and was a finalist in *Revolution Magazine's* Best Online Content category. Opposer also has received *Inside PR's* Creativity in Public Relations award for Best Program in the Entertainment Sector, and Tribeca Film Productions' Rulers Edge award for Best New Marketing Campaign.

Opposer's response to Interrogatory No. 23 is non-responsive. "Meaning and commercial impression" should be given their ordinary meaning in the English language. Accordingly, Interrogatory No. 23 is not ambiguous. Opposer offers examples of third party media attention in response to Applicant's interrogatory. Please supplement Opposer's response to Interrogatory No. 23 to include the meaning in the English language and the commercial impression of Opposer's Marks.

***Opposer's Response to Applicant's First Document Request***

**REQUEST NO. 13**

Produce those documents regarding the date and circumstances under which Opposer became aware of the use or registration of Applicant's Mark.

**RESPONSE**

Privilege Objection. Relevance Objection.

Opposer's Response to Request No. 13 is non-responsive. Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party, including the existence and description of any relevant documents. Relevant documents include any discovery reasonably calculated to lead to the discovery of admissible evidence. Fed.R.Civ.P.26(b)(1). The date and circumstances under which Opposer became aware of the use or registration of Applicant's mark is directly relevant to the determination of the legal

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
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grounds for this Opposition proceeding. We ask that Opposer immediately produce all responsive, non-privileged documents requested to Applicant.

**REQUEST NO. 14**

Produce those documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

**RESPONSE**

Public Source Objection. Privilege Objection. Relevance Objection, in that any action or inaction of Opposer in regard to Applicant's use of Applicant's Mark is not relevant to this proceeding.

Opposer's response to Request No. 14 is non-responsive. Action taken or not taken by Opposer in response to its awareness of Applicant's Mark is relevant to this proceeding as it may, for example, be relevant to the determination of laches or estoppel as a complete defense to Opposer's claims. We ask that Opposer immediately produce those responsive, non-privileged documents regarding any action taken by Opposer in response to its awareness of Applicant's Mark.

**REQUEST NO. 17**

Produce those documents regarding any instance in which a person has been confused, mistaken, or deceived as to the source of Applicant's Products advertised, promoted, offered for sale, or sold in connection with Applicant's Mark, and the source of Opposer's Services advertised, promoted, offered for sale, or sold in connection with any of Opposer's Marks.

**RESPONSE**

Opposer will produce any such documents in its possession.

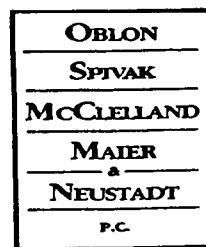
Opposer's response to Request No. 17 is incomplete. Opposer states that it "will produce any such documents in its possession." However, Opposer's duty to produce relevant documents extends beyond those documents within its physical possession. Under the Federal Rules of Civil Procedure, Opposer must produce any relevant responsive documents in its possession, custody or control. Fed.R.Civ.P. 34(a). To the extent necessary, please immediately supplement Opposer's response to Request No. 17.

**REQUEST NO. 18**

Produce those documents and things forming the basis for the denial, in whole or in part, with respect to each of Opposer's responses to Applicant's First Requests for Admissions.



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Natasha Snitkovsky, Esq.  
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#### RESPONSE

Overboard Objection. Ambiguity Objection. In addition to these objections, Opposer points out that it has as yet received no discovery from Applicant and anticipates that such discovery will provide support for some of these denials.

Opposer's response to Request No. 18 is non-responsive. Opposer states that it has not yet received discovery from Applicant and anticipates that such discovery will provide support for certain of its denials in response to Applicant's First Requests for Admissions. Applicant has since preliminarily responded to Opposer's first set of written discovery in this matter. Accordingly, please supplement Opposer's response to Request No. 18 to provide all documents and things forming the basis for the denial of any of Opposer's Responses to Applicant's First Requests for Admissions.

#### REQUEST NO. 20

Produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

#### RESPONSE

Ambiguity Objection as to what manner of document is identified by this request. Without waiving this objection, Opposer will do its best to produce responsive, non-privileged documents.

Opposer's response to Request No. 20 is non-responsive. Opposer states that the request is ambiguous to the extent that it fails to describe "what manner of document is identified by this request." The term "document" is defined in Applicant's First Set of Interrogatories, which definition is incorporated by reference into Applicant's First Request for Production of Documents. Accordingly, please supplement this response to produce those documents regarding the appearance, pronunciation, meaning and commercial impression of Opposer's Marks.

#### REQUEST NO. 21

Produce those documents, not otherwise requested herein, and referred to by Opposer in responding to Applicant's First Set of Interrogatories.

#### RESPONSE

Overbroad Objection.

Opposer's response to Request No. 21 is non-responsive. Opposer simply states that the request is overbroad. However, Trademark Rules of Practice provide that where a request is unduly burdensome, the Board, not Opposer may determine that a sample of responsive

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
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documents is adequate to meet the needs of the request. In this case, Opposer has failed to offer even a representative sample of responsive documents. Accordingly, please produce all documents, not otherwise produced, referred to by Opposer in responding to Applicant's First Set of Interrogatories.

Opposer states in response to several of Applicant's requests for production that the documents and things requested are confidential and therefore will not be produced. However, the mere identification of discovery documents (as opposed to the substance of the documents identified) is not privileged or confidential. TBMP §419(1); *see Goodyear Tire & Rubber Co. v. Tyrco Industries*, 186 USPQ 207 (TTAB 1975). To the extent Opposer wishes to assert a confidentiality objection to Applicant's Requests for Production of Documents, it may do so pursuant to a Stipulated Protective Order, once in place.

***Opposer's Response to Applicant's Request for Admissions***

**REQUEST NO. 3**

Admit that Opposer's Mark, UGO, stands for "Underground Online"

**RESPONSE**

Opposer admits that Opposer's Mark, UGO, currently stands for "Underground Online" or "UnderGround Online," although Opposer notes that Opposer's Mark has in the past also been used to stand for other words, although the UGO mark and its pronunciation has remained consistent.

**REQUEST NO. 4**

Admit that Opposer's Mark, UGO, is an initialism for "Underground Online."

**RESPONSE**

See Response No. 3.

**REQUEST NO. 5**

Admit that Opposer's Mark, UGO, is an abbreviation for "Underground Online."

**RESPONSE**

See Response No. 3.

**REQUEST NO. 6**

Admit that Opposer's Mark, UGO, is an acronym for "Underground Online."

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
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**RESPONSE**

See Response No. 3.

**REQUEST NO. 7**

Admit that Opposer's Mark, UGO, stands for "UnderGroundOnline."

**RESPONSE**

See Response No. 3.

**REQUEST NO. 8**

Admit that Opposer's Mark, UGO, is an initialism for "UnderGroundOnline."

**RESPONSE**

See Response No. 3.

**REQUEST NO. 9**

Admit that Opposer's Mark, UGO, is an abbreviation for "UnderGroundOnline."

**RESPONSE**

See Response No. 3.

**REQUEST NO. 10**

Admit that Opposer's Mark, UGO, is an acronym for "UnderGroundOnline."

**RESPONSE**

See Response No. 3.

In response to Applicant's Requests 3 – 10, Opposer states that Opposer's UGO mark currently stands for "Underground Online" or "UnderGroundOnline". However, Opposer fails to directly respond to Applicant's requests regarding UGO's function as an abbreviation, acronym or initialism for Underground Online or UnderGroundOnline. Please supplement responses 3 – 10 to remedy this apparent oversight.

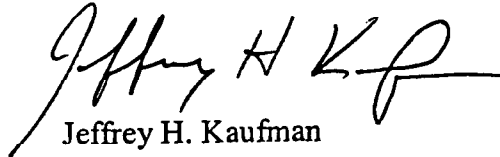
William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
231349US-1394-229237-33  
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Please advise when we may expect to receive your client's supplemental responses and documents.

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

JHK/ACS/tmt (I:\ATTY\JHK\KONAMI\1394-231349US-LTR1.DOC)

Enclosure(s): Copy of Opposer's Responses to Applicant's First Set of Discovery Requests

cc: Konami Corporation

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 11**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
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Phone: (703) 413-3000  
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**Counsel for Applicant  
Konami Corporation**

WILLKIE FARR & GALLAGHER

201-547-1005 VCCX III  
JK

787 Seventh Avenue  
New York, NY 10019-6099  
Tel: 212 728 8000  
Fax: 212 728 8111

**CONFIRMATION COPY**

July 31, 2003

VIA FACSIMILE (703) 413-2220  
CONFIRMATION VIA FIRST CLASS MAIL

Mr. Jeffrey H. Kaufman  
Oblon, Spivak, McClelland,  
Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314

Re: UGO Networks, Inc. v. Konami Corporation  
Opposition No. 91/153.578

**RECEIVED**

AUG 04 2003

OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

Dear Mr. Kaufman:

We are in receipt of your letter of June 16, 2003.

In light of your letter, and our letters of May 7 and May 16, 2003, it is apparent that we have both taken the position that the other party's discovery responses are deficient in several respects.

However, given that we are currently negotiating a settlement, we believe it would not be fruitful to address your objections at this time. If and when the time comes, we will revisit the issue and respond substantively to your June 16<sup>th</sup> letter.

In the meantime, we look forward to continuing work with you on settlement efforts and propose to extend the discovery and trial dates in the consolidated proceedings. Discovery is presently scheduled to end on September 30, 2003; please let us know if you are amenable to an extension of three (3) months, and we will draft a document for filing with the Trademark Trial and Appeal Board.

Very truly yours,

*Natasha Snitkovsky*

William M. Ried  
Natasha Snitkovsky

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appl. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 12**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



October 7, 2003  
Via Courier

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN  
(703) 412-6404  
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*  
Opposition No. 153,578  
U.S. Appln. Serial No. 76/074,595  
Our Ref.: 231349US-1394-229237-33

Dear Mr. Ried and Ms. Snitkovsky:

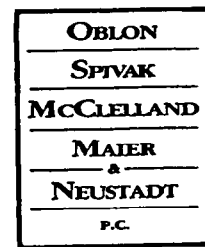
Enclosed please find a copy of the executed Protective Order submitted for entry in the above Opposition proceeding.

Now that the Protective Order is in place, we are in a position to supplement Konami Corporation's document production to include confidential documents. Given that settlement negotiations have ceased for the time being and in light of the Stipulated Protective Order now in place, we ask that you respond substantially to our letter of June 16, 2003 raising deficiencies in your client's discovery responses, and produce those confidential responsive documents withheld to date.

We would like to schedule the depositions of Ugo Networks employees, including a Rule 30(b)(6) representative. As the scheduling process can be protracted, we ask that you begin the process of gathering dates on which witnesses with the most knowledge of the creation, history and use of the UGO mark would be available.



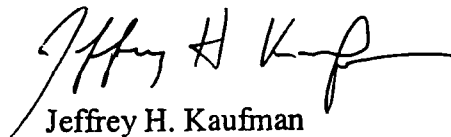
William M. Ried, Esq.  
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231349US-1394-229237-33  
Page 2



Finally, our client has proposed a further thirty day extension of the discovery period in this matter until November 1, 2003. Please advise if you would consent to this further extension.

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

JHK/ACS/tmq/rab {I:\ATTY\JHK\KONAMI\LETTERS\1394-231349US-LTR8.DOC}

Enclosure(s): Copy of Executed Protective Order

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

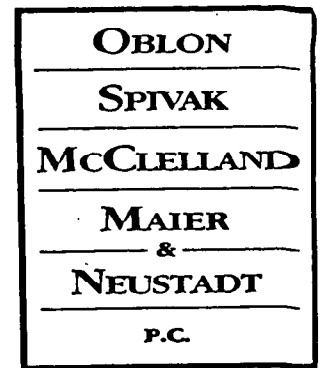
UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appl. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 13**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



October 24, 2003

VIA COURJER

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN  
(703) 412-6404  
JKAUFMAN@OBLON.COM

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

Re: *UGO Networks, Inc. v. Konami Corporation*  
Opposition No. 91/153,578  
Appl. Serial No.: 76/074,595  
Our Ref: 1394-231349US-33

Dear Mr. Ried and Ms. Snitkovsky:

Our client has reviewed the Notice to Take Deposition of a Rule 30(b)(6) representative of Konami Corporation and the areas outlined in the notice's attached exhibit.

As you may know, Konami Corporation is a Japanese corporation with headquarters located in Japan. Konami partners with a number of third-parties, including Japanese and American companies, to develop, advertise, and distribute its products in the United States, including products sold under the YU-GI-OH! mark.

Because of our client's multi-national presence, size, and corporate complexity, many of those individuals with knowledge of the matters relevant to this proceeding are located abroad or, in some cases, are not employed by Konami Corporation.

Konami will not make witnesses employed by Konami Corporation and located in Japan available for deposition in the United States as an initial matter. Given the extended period for discovery (currently until December 30, 2003), there appears to be ample time for the parties to arrange for the depositions of witnesses located in Japan to be completed pursuant to procedure provided by TBMP § 404.03(b).

In other cases, there may be certain employees of Konami's U.S. subsidiary, KDE, who have knowledge of particular areas at issue. Note that KDE is located in Redwood City, California. Konami Corporation may agree to the taking of KDE employee(s) deposition(s) at our office in Alexandria, Virginia, if depositions of Opposer's employees are similarly permitted in Alexandria or Manhattan.

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
1394-231349US-33  
Page 2



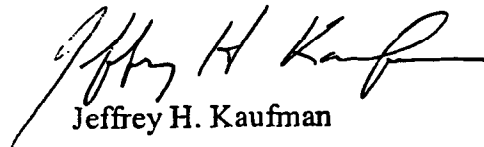
In the case of third-party witnesses, whom Konami does not control, Ugo Networks will have to secure the attendance of these witnesses through civil subpoenas in accordance with the Civil Rules and the Trademark Rules of Practice.

We enclose Notices to Take Depositions of the three witnesses identified in our e-mail correspondence of October 16, 2003. Since you have not yet provided available dates, we chose dates as an initial matter. We understand that these dates may have to be altered. However, the period of our availability for these depositions, as well as for our client's U.S. witnesses, is November 24, 2003 through December 12, 2003.

Finally, we ask again that you respond substantively to our June 16, 2003 deficiency letter. We will require this information to prepare for the anticipated depositions.

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

Encl.: Notices to Take Depositions

JHK/ASC/rab {I:\arty\JHK\Konami\1394-231349US-ltr2.doc}

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appl. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 14**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

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

_____	)	
UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Opposition No. 91/153,578
v.	)	Appln. Serial No.: 76/074,595
	)	
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**NOTICE OF DEPOSITION OF  
MR. MICHAEL McCracken**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 24, 2003, beginning at 1:00 P.M., at  
the offices of:

ALLSTAR REPORTERS, INC.  
50 Carnation Avenue  
Floral Park  
New York, New York 11001  
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Mr. Michael McCracken, CFO and Vice President of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12<sup>th</sup> Floor, New York, New York 10010.

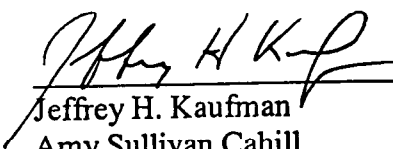
The deposition will be taken for purposes of discovery and for all other purposes permitted under the Federal Rules of Civil Procedure and Trademark Rules of Practice. The

deposition will be taken before a notary, duly authorized to administer oaths and transcribe the testimony of the deponent, and the deposition will continue from day to day until completed.

You are invited to attend and cross-examine.

Respectfully submitted,

KONAMI CORPORATION

By:   
Jeffrey H. Kaufman  
Amy Sullivan Cahill  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
fax: (703) 413-2220  
e-mail: [tmocket@oblon.com](mailto:tmocket@oblon.com)

Attorneys for Applicant

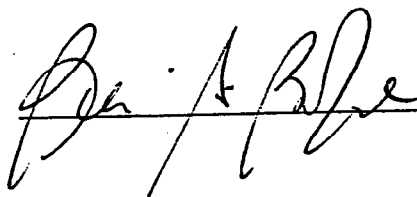
Dated: 10/24/03

JHK/ASC/rab {I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-NOD2.DOC}

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION to be served by U.S. First Class Mail, postage prepaid, this 24 day of October, 2003, on all counsel of record as follows:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

  
\_\_\_\_\_



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

_____		)	
UGO NETWORKS, INC.,		)	
		)	
	Opposer,	)	
		)	Opposition No. 91/153,578
v.		)	Appln. Serial No.: 76/074,595
		)	
KONAMI CORPORATION,		)	
		)	
	Applicant.	)	
_____		)	

**NOTICE OF DEPOSITION OF MR. J. MOSES**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 24, 2003, beginning at 9:00 A.M., at the offices of:

ALLSTAR REPORTERS, INC.  
50 Carnation Avenue  
Floral Park  
New York, New York 11001  
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Mr. J. Moses, President and CEO of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12<sup>th</sup> Floor, New York, New York 10010.

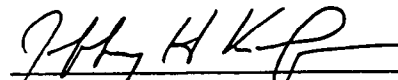
The deposition will be taken for purposes of discovery and for all other purposes permitted under the Federal Rules of Civil Procedure and the Trademark Rules of Practice. The deposition will be taken before a notary, duly authorized to administer oaths and transcribe the testimony of the deponent, and the deposition will continue from day to day until completed.

You are invited to attend and cross-examine.

Respectfully submitted,

KONAMI CORPORATION

By:

  
\_\_\_\_\_  
Jeffrey H. Kaufman

Amy Sullivan Cahill

OBLON, SPIVAK, McCLELLAND,

MAIER & NEUSTADT, P.C.

1940 Duke Street

Alexandria, Virginia 22314

(703) 413-3000

fax: (703) 413-2220

e-mail: [tmocket@oblon.com](mailto:tmocket@oblon.com)

Attorneys for Applicant

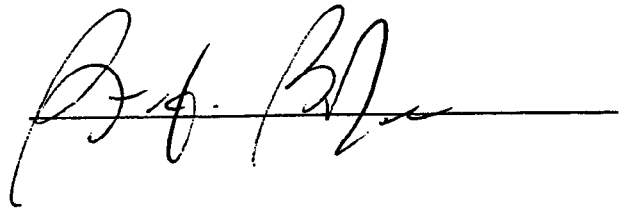
Dated: 10/24/03

JHK/ASC/rab {I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-NOD.DOC}

CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION to be served by U.S. First Class Mail, postage prepaid, this 24 day of October, 2003, on all counsel of record as follows:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

A handwritten signature in black ink, appearing to read "W.M. Ried", is written over a horizontal line.

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

_____		)	
UGO NETWORKS, INC.,		)	
		)	
	Opposer,	)	
		)	
v.		)	Opposition No. 91/153,578
		)	Appln. Serial No.: 76/074,595
		)	
KONAMI CORPORATION,		)	
		)	
	Applicant.	)	
_____		)	

**NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6)  
OF OPPOSER UGO NETWORKS, INC.**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on November 25, 2003, beginning at 9:00 A.M., at  
the offices of:

ALLSTAR REPORTERS, INC.  
50 Carnation Avenue  
Floral Park  
New York, New York 11001  
(800) 329-9222

Applicant, Konami Corporation, through its attorneys of record, will take the deposition upon oral examination of Opposer, Ugo Networks, Inc., a corporation doing business at 251 Park Avenue South, 12<sup>th</sup> Floor, New York, New York 10010, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure. The deposition will be taken before a notary, duly authorized to administer oaths and transcribe the testimony of the deponent, and the deposition will continue from day to day until completed.

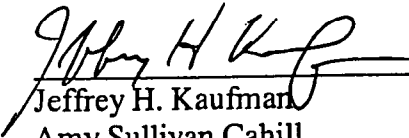
You are invited to attend and cross-examine.

THE NOTICE NAMES AS A DEONENT A CORPORATION. Pursuant to Rule 30(b)(6), Fed. R. Civ. P., Opposer, Ugo Networks, Inc., is required to identify and produce for deposition one or more officers, directors, managing agents, or other agents and employees who consent to testify on its behalf and are the officers, directors, agents or employees most knowledgeable as to the following matters identified in EXHBIT A to this Notice of Deposition which is attached hereto and incorporated herein by reference.

Respectfully submitted,

KONAMI CORPORATION

By:

  
Jeffrey H. Kaufman

Amy Sullivan Cahill  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

1940 Duke Street  
Alexandria, Virginia 22314  
(703) 413-3000  
fax: (703) 413-2220  
e-mail: [tmocket@oblon.com](mailto:tmocket@oblon.com)

Attorneys for Applicant

Dated: 10/24/03

JHK/ASC/rab (I:\ATTY\JHK\KONAMI\FILINGS\1394-231349US-NOD3.DOC)

**EXHIBIT A**

## **EXHIBIT A**

### **DEFINITIONS AND INSTRUCTIONS**

Applicant incorporates herein by reference as if fully restated herein the Definitions and Instructions to Applicant's First Set of Interrogatories to Opposer ("Applicant's Interrogatories").

### **TOPICS ON WHICH EXAMINATION IS REQUESTED PURSUANT TO RULE 30(B)(6)**

1. Applicant's First and Second Sets of Interrogatories to Opposer and all topics and information referenced or raised therein;
2. Opposer's Objections and Answers to Applicant's First and Second Sets of Interrogatories and all topics and information referenced or raised therein;
3. Applicant's First and Second Requests for Production of Documents and Things to Opposer and all topics and information referenced or raised therein;
4. Opposer's Objections and Responses to Applicant's First and Second Requests for Production of Documents and Things and all topics and information referenced or raised therein;
5. The documents produced by Opposer in this matter concerning Ugo Networks, Inc. or its predecessors in interest;
6. Applicant's First and Second Sets of Requests for Admissions to Opposer and all topics and information referenced or raised therein;
7. Opposer's Objections and Responses to Applicant's First and Second Requests for Admissions to Opposer and all topics and information raised therein;
8. The products and services offered for sale under Opposer's UGO mark;
9. All non-privileged communications between Opposer and any other person(s) concerning a) the name or brand UGO; b) UGO brand products and services; or c) this action;
10. The creation, manufacture, purchase, distribution, sale, marketing, recall or return of any of Opposer's products offered for sale under Opposer's UGO mark;
11. The creation and content of Opposer's web site [www.ugo.com](http://www.ugo.com);

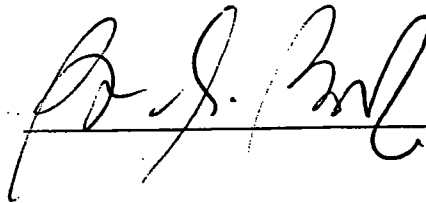
12. Any expert witness and any report provided by any expert witness whom Opposer has retained in connection with this proceeding, including all documents, materials and things provided to that expert witness and all communications with that expert witness;
13. Any prior lawsuits or demand letters where Opposer or any of its officers, directors or employees have been accused of trademark infringement or unfair competition in the past and the details and disposition of all such lawsuits or demand letters;
14. The persons supplying information in connection with Opposer's objections and responses to Applicant's First and Second Sets of Interrogatories and Applicant's First and Second Requests for Production of Documents and Things;
15. The factual and legal basis for each claim asserted by Opposer in the Notice of Opposition;
16. All advertising and promotional efforts by Opposer to market its UGO brand products and services, including catalogs, letters, web pages, web sites, trade shows, or other materials;
17. The pleadings in this proceeding;
18. The corporate history and creation of Ugo Networks, Inc. including its relationship and any communications with its predecessors in interest, including Unified Gamers Online;
19. The source, creation and history of the UGO mark.



CERTIFICATE OF SERVICE

I hereby certify that I have caused a true and correct copy of the foregoing NOTICE OF DEPOSITION PURSUANT TO RULE 30(B)(6) OF OPPOSER UGO NETWORKS, INC. to be served by U.S. First Class Mail, postage prepaid, this 21 day of October, 2003, on all counsel of record as follows:

William M. Ried  
Natasha Snitkovsky  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099



A handwritten signature in cursive script, appearing to read "W.M. Ried", is written over a horizontal line.

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

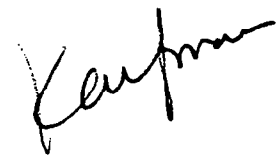
UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 15**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



**WILLKIE FARR & GALLAGHER<sub>LLP</sub>**

WILLIAM M. RIED  
212 728 8729  
wried@willkie.com

787 Seventh Avenue  
New York, NY 10019-6099  
Tel: 212 728 8000  
Fax: 212 728 8111

October 27, 2003

Jeffrey Kaufman, Esq.  
Oblon, Spivak, McClelland, Maier & Neustadt P.C.  
1940 Duke Street  
Alexandria, VA 22314

**RECEIVED**

OCT 30 2003

OBLON, SPIVAK, MCCLELLAND  
MAIER & NEUSTADT, P.C.

Re: UGO v. Konami  
Opposition No. 153,578

Dear Mr. Kaufman:

At your request following Applicant's termination of settlement discussions in this matter, we have returned to your June 16, 2003 letter concerning Opposer's responses to Applicant's first set of discovery requests.

By separate letter, we have addressed the deficiencies in Applicant's responses to Opposer's discovery requests. In light of Applicant's failure to provide responsive information in response to such requests, even to the point of refusing to identify the persons responsible for Applicant's relevant business under Applicant's Mark, we find it remarkable that you could complain about the comparatively forthcoming responses of Opposer. We inquire whether you have some basis to assert a different standard of obligation to respond to discovery for applicants and opposers.

In any event, you may feel free to contact the identified employees of UGO through our offices. In addition, we are gathering for your inspection confidential documents that we will produce pursuant to the protective order now entered. We remain confused about your various discovery requests into Opposer's knowledge of the registration of Applicant's Mark, as we are aware of no such registrations. We continue to assert that the doctrines of laches and estoppel are not relevant to this opposition proceeding. We assure you that, in responding that we would produce documents in Opposer's possession, this includes documents in Opposer's custody or control and we feel confident that Applicant also would not hide behind such semantic distinctions to shield proper discovery.

In regard to Applicant's request for admissions, we ask for your help in clarifying your issue. You asked, first, for Opposer to admit that UGO stands for "Underground Online" or "UnderGroundOnline." We responded to this request. You then asked for Opposer to admit that UGO functions as an abbreviation for these words. In our dictionary, "abbreviation" means an abridgement

Jeffrey Kaufman, Esq.  
October 27, 2003  
Page 2

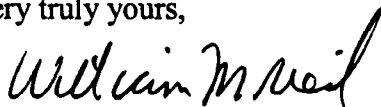
or short form of a word or phrase used in place of the whole. If this differs from what you meant by "stands for," please explain the distinction. Similarly, you separately asked for Opposer to admit that UGO is an "acronym" for the same words. In our dictionary, an "acronym" is defined as "a word formed from the initial letter or letters of each of the successor parts or major parts of a compound term." Again, we ask how this differs from asking whether UGO "stands for" these words. Finally, you asked whether UGO is an "initialism" for the same words. Our dictionary defines "initialism" as "an acronym formed from initial letters." We trust you can see why we believed we responded fully to your questions and objected to being asked to respond separately to every way you could think of asking the same question.

We do not fault your efforts to make certain you have an answer to your question of what UGO stands for. However, we do fault your devoting two pages of a supposed "good faith" letter to insisting that we again share in this mental exercise with you.

In conclusion, we return to your discussion of Opposer's response to Document Request 18. Opposer's response had stated, in part, that it anticipated receiving discovery from Applicant that would provide support for its denials of requests for admission. Your reply was that "Applicant has since preliminarily responded to Opposer's first set of written discovery in this matter." This "preliminary" response was served in April, some six months ago and promised follow up in numerous particulars following your continuing investigation. Now the discovery deadline is upon us, but you have still not supplied any "final" responses to Opposer's discovery requests or any supplement at all to reflect your investigation. You also have yet to supply any of the documents you agreed to supply once a protective order was in place. Your "preliminary" responses were entirely evasive and provided no meaningful discovery.

As stated above, we are collecting confidential documents for your inspection and copying and will advise you when and where they will be made available. Please do not hesitate to call if you wish to discuss any other discovery matters.

Very truly yours,



William M. Ried

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 16**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

**From:** Brian Darville  
**To:** Bill Ried  
**Date:** 11/7/03 3:09PM  
**Subject:** UGO Networks v. Konami Corporation

Dear Bill:

Konami is prepared to provide its supplemental document production. The cost of copying these 819 documents would be approximately \$163.80, plus courier charges. If you wish for us to proceed with the production, please confirm your agreement to pay the \$163.80 plus courier charges. We will then copy the documents and produce them to you.

In addition, I am informed that we are still waiting on payment from your firm for Konami's previous production made in June 2003. I attach a copy of your e-mail regarding that charge. Please advise if we have overlooked your payment. Otherwise, please confirm that you will make that payment as well so that we can proceed with Konami's supplemental document production.

Thank you.

Sincerely,

Brian Darville  
Oblon, Spivak  
(703) 412-6426  
bdarville@oblon.com

**CC:** Amy Sullivan; Kaufman, Jeffrey

**From:** "Ried, William" <wried@willkie.com>  
**To:** 'Amy Sullivan' <ASULLIVAN@oblon.com>  
**Date:** Mon, Jun 9, 2003 4:29 PM  
**Subject:** RE: UGO Networks, Inc. v. Konami Corporation

Ms. Sullivan: Please proceed. Second day delivery will be fine. Thank you.  
Bill Ried

-----Original Message-----

**From:** Amy Sullivan [mailto:ASULLIVAN@oblon.com]  
**Sent:** Monday, June 09, 2003 4:13 PM  
**To:** Ried, William  
**Subject:** RE: UGO Networks, Inc. v. Konami Corporation

Mr. Ried:

The cost of copying would be approximately \$300 plus courier charges. If you decide you would like for us to proceed, please indicate whether you would like overnight service, second day or overnight delivery. We ship via UPS.

Amy C. Sullivan

>>> "Ried, William" <wried@willkie.com> 06/09/03 02:46PM >>>

Ms. Sullivan: Please advise what you will charge to photocopy and deliver the discovery documents. Thank you.

William M. Ried  
Willkie Farr & Gallagher  
787 Seventh Avenue  
New York, NY 10019-6099  
phone: (212) 728-8729  
fax: (212) 728-9729  
<wried@willkie.com>

-----Original Message-----

**From:** Amy Sullivan [mailto:ASULLIVAN@oblon.com]  
**Sent:** Monday, June 09, 2003 1:55 PM  
**To:** Snitkovsky, Natasha; Ried, William  
**Subject:** UGO Networks, Inc. v. Konami Corporation

Re: UGO Networks, Inc. v. Konami Corporation  
Consolidated Opposition Nos. 91/153,578 & 91/154,657  
U.S. Appln. Serial No. 76/074,595 & 76/075,729  
Our Ref.: 231349US-1394-229237-33

Ms. Snitkovsky and Mr. Ried:

Thank you for your correspondence of June 4, 2003.

Please confirm that you will reimburse the cost of photocopying the

discovery documents identified in our client's responses to Ugo Networks, Inc.'s documents requests. We will begin copying and assembling the documents immediately upon confirmation.

We have no objection to the Stipulated Protective Order additions you propose. However, we will need our client's approval before consenting to the changes and will advise you as soon as we receive instructions.

Thank you,

Amy C. Sullivan

Amy C. Sullivan  
Trademark & Copyright Department  
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
asullivan@oblon.com <mailto:asullivan@oblon.com>  
Direct Dial: (703) 412-6464  
Fax: (703) 413-2220

\*\*\*\*\*

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of Willkie Farr & Gallagher presumptively contain information that is confidential and legally privileged; e-mail messages to non-clients are normally confidential and may also be legally privileged. Please do not read, copy, forward or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it back to the sender and delete it completely from your computer system.

\*\*\*\*\*



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 17**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**

**From:** Jeffrey Kaufman  
**To:** "wried@willkie.com".GWIA.OSGW  
**Date:** 11/12/03 6:27PM  
**Subject:** RE: UGO Networks v. Konami Corporation

Bill:

I understand that Brian Darville responded to Natasha's telephone call this afternoon and left her a voicemail message. To my knowledge, she has not returned Brian's return call.

We are producing Konami's confidential documents tonight so you should have them tomorrow. As Brian's letter more fully explains (copy attached), we did not receive the documents back from the copier until late in the day on Monday and could not get them out before close of business. Our office was closed on Tuesday, so we are sending the documents out on the first available day.

We hope to be able to serve Konami's supplemental discovery responses shortly once we obtain some additional information from Japan. As to the depositions you noted for November 17, as we previously informed you, that date is not possible, and we will need to work on a mutually-convenient schedule for both sides' discovery depositions.

We disagree with your statement of how the discovery has progressed in this case, and hope that you will reconsider and not seek the Board's involvement at this stage. We have been fully cooperative and your e-mail does not consider the difficulty we have faced in producing documents from a large client whose documents are mainly located in Japan. We continue to work with you to be fully responsive, to the extent required by the Rules, to Ugo Networks' discovery requests.

May I also remind you that we still await UGO Networks' supplemental discovery responses, which are deficient as we outlined five months ago, on June 15, 2003. Please let us know where this stands.

Regards,

Jeff Kaufman

Jeffrey H. Kaufman  
Oblon, Spivak  
1940 Duke Street, Alexandria, VA 22314 USA  
voice 1-703-412-6404 fax 1-703-413-2220  
jkaufman@oblon.com www.oblon.com

>>> "Ried, William" <wried@willkie.com> 11/12/03 04:43PM >>>  
Brian:

We are perplexed by your failure to respond to our emails below. We also tried unsuccessfully to reach you and Jeffrey Kaufman by telephone this afternoon and have received no return calls.

You have forced us to conclude that your offer only after six months to supply supplemental discovery responses/documents -- and then your failure to honor this offer by actually serving the responses/documents -- is intended to make it impossible for us to proceed with the deposition of Konami scheduled for November 17 and to obstruct our attempts to obtain complete discovery responses from Konami.

We feel that you have left us no choice but to seek the assistance of the

Board to compel discovery responses and preclude Konami from offering withheld evidence. We nonetheless remain open to a resolution of this discovery dispute at any time prior to the Board's consideration of the matter.

Very truly yours,

Bill Ried

-----Original Message-----

From: Ried, William  
Sent: Monday, November 10, 2003 6:33 PM  
To: 'Brian Darville'  
Cc: Snitkovsky, Natasha; Jeffrey Kaufman (E-mail)  
Subject: RE: UGO Networks v. Konami Corporation

Brian: We did not receive any documents today. We will look for them again tomorrow, but don't have much more time before we must determine whether Konami's discovery responses will permit us to go forward with the depositions or require us to seek the intervention of the Board. We reiterate that we would like you to deliver your supplemental production to us by overnight courier, given the shortness of time, and that we will reimburse these forwarding charges.

We are sure that, like us, you and the Konami witnesses would like to firm up your schedules. If the documents will not be delivered to us tomorrow, please let us know when we can expect them. Thank you. Bill

-----Original Message-----

From: Ried, William  
Sent: Friday, November 07, 2003 4:58 PM  
To: 'Brian Darville'  
Subject: RE: UGO Networks v. Konami Corporation

Brian: We will pay the new charges and the old charges. We ask that you send the documents off for Monday delivery, as we will need quickly to assess whether your supplemental production/ responses respond to our requests sufficiently to permit the depositions to go forward. Thank you. Bill

-----Original Message-----

From: Brian Darville [<mailto:BDARVILLE@oblon.com>]  
Sent: Friday, November 07, 2003 3:09 PM  
To: Ried, William  
Cc: Amy Sullivan; Jeffrey Kaufman  
Subject: UGO Networks v. Konami Corporation

Dear Bill:

Konami is prepared to provide its supplemental document production. The cost of copying these 819 documents would be approximately \$163.80, plus courier charges. If you wish for us to proceed with the production, please

confirm your agreement to pay the \$163.80 plus courier charges. We will then copy the documents and produce them to you.

In addition, I am informed that we are still waiting on payment from your firm for Konami's previous production made in June 2003. I attach a copy of your e-mail regarding that charge. Please advise if we have overlooked your payment. Otherwise, please confirm that you will make that payment as well so that we can proceed with Konami's supplemental document production.

Thank you.

Sincerely,

Brian Darville  
Oblon, Spivak  
(703) 412-6426  
[bdarville@oblon.com](mailto:bdarville@oblon.com)

\*\*\*\*\*

IMPORTANT NOTICE: This e-mail message is intended to be received only by persons entitled to receive the confidential information it may contain. E-mail messages to clients of Willkie Farr & Gallagher LLP presumptively contain information that is confidential and legally privileged; e-mail messages to non-clients are normally confidential and may also be legally privileged. Please do not read, copy, forward or store this message unless you are an intended recipient of it. If you have received this message in error, please forward it back. Willkie Farr & Gallagher LLP is a limited liability partnership organized in the United States under the laws of the State of Delaware, which laws limit the personal liability of partners.

\*\*\*\*\*

CC: "nsnitkovsky@willkie.com".GWIA.OSGW; Darville, Brian

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appl. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 18**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



November 12, 2003

Via UPS Courier

William M. Ried, Esquire  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

ATTORNEYS AT LAW

BRIAN B. DARVILLE  
(703) 412-6426  
BDARVILLE@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*  
Opposition No. 91/153,578  
Appl. Serial No.: 76/074,595  
Our Ref: 231349US-1394-33

Dear Mr. Ried:

We received your letter of October 15, 2003.

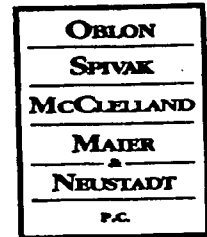
As you know, and consistent with the Federal Rules of Civil Procedure, Applicant withheld from production its confidential and proprietary documents and information pending the parties' agreement to a Stipulated Protective Order. That Stipulated Protective Order was first tendered to the Board only recently. Accordingly, Applicant hereby produces the following documents marked CONFIDENTIAL pursuant to the terms of the Stipulated Protective Order in this matter.

K00003 - K00006  
K00011 - K00012  
K00023 - K00047  
K00054 - K00055  
K00057 - K00132  
K00218  
K00226 - K00229  
K00232

K00237 - K00238  
K00240 - K00241  
K00243  
K00249  
K00255  
K00257  
K00258  
K00273

K00277  
K00279  
K00304 - K00325  
K01487 - K01490  
K01498 - K01584  
K01604 - K02128  
K02129 - K02175

William M. Ried, Esquire  
231349US-1394-33  
Page 2



We also received your e-mails regarding Konami's supplemental document production. We did not receive the documents from the copier until late in the day on Monday, and could not get them out to you that night. Our office was closed on Tuesday, so we could not send you the documents until today. We are now sending the documents to you overnight.

Your claims that Konami is seeking to obstruct UGO Network's discovery is incorrect. Konami informed you weeks ago that its witnesses would not be available on November 17, 2003. You never responded and did not propose any alternative dates.

We expect to be able to serve Konami's supplemental discovery responses in the near future once we receive authority from Konami. We will send them to you by overnight courier once they are final.

Similarly, we expect UGO Networks to supplement its discovery responses as outlined in our June 15, 2003 letter. It has been five months since that letter and you have not responded in any meaningful way. Your October 28, 2003 letter makes light of the discovery Konami seeks, but ignores many of the deficiencies with UGO Networks' discovery responses. We again request full and complete supplemental responses as soon as possible and certainly no later than November 19, 2003.

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Brian B. Darville

BBD/ASC/kan {I:\atty\JHK\Konami\Letters\1394-231349US-lt5.doc}

Enclosure(s): As Stated

cc: Jeffrey H. Kaufman, Esquire

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appl. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 19**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



# WILLKIE FARR & GALLAGHER LLP

787 Seventh Avenue  
New York, NY 10019-6099  
Tel: 212 728 8000  
Fax: 212 728 8111

November 12, 2003

VIA FACSIMILE (703) 413-2220  
CONFIRMATION VIA FIRST-CLASS MAIL

Mr. Jeffrey H. Kaufman  
Oblon, Spivak, McClelland,  
Maier & Neustadt, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314

Re: UGO v. Konami  
Opposition No. 91/153,578  
Motion to Compel and to Preclude Depositions

Dear Mr. Kaufman:

Given your continuing refusal to supplement your discovery responses/production or even to respond to our emails and telephone calls, you have forced us to file with the Trademark Trial and Appeal Board a motion to compel. Enclosed with the confirmation copy of this letter are service copies of this motion and the supporting documents.

Additionally, as your actions have made it impossible for us to proceed with the deposition of Konami scheduled for November 17, we must adjourn this deposition pending the Board's resolution of the motion and/or our receipt of satisfactory supplemental responses/production.

Finally, as we have discussed previously, we will not produce the UGO witnesses named in your deposition notices until the conclusion of the previously noticed Konami deposition.

Very truly yours,

*Natasha Snitkovsky (vsm)*  
William M. Ried  
Natasha Snitkovsky

**RECEIVED** JK  
NOV 13 2003

Enclosures

*lx*  
OBLON, SPIVAK, McCLELLAND  
MAIER & NEUSTADT, P.C.

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 20**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



November 13, 2003

Via Facsimile

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN  
(703) 412-6404  
JKAUFMAN@OBLON.COM

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

Re: UGO Networks, Inc. v. Konami Corporation  
Opposition No. 91/153,578  
Appln. Serial No.: 76/074,595  
Our Ref: 231349US-1394-33

Dear Mr. Ried and Ms. Snitkovsky:

This letter is in response to your November 12, 2003 letter to me, which was faxed to our firm after 6:00 p.m. yesterday evening.

Contrary to your claims, Konami did not refuse to supplement its discovery responses. As we explained, we produced Konami's confidential documents on the first available day after we received them from the copying service. We produced those documents to you yesterday evening and we understand from your e-mail today that you have received them.

We note that in your e-mail to me today you acknowledge that the parties had agreed to put all discovery issues on hold while they were pursuing settlement discussions. You then claim that UGO Networks responded to Konami's letter regarding UGO Network's deficient discovery on October 28, 2003. But your October 28, 2003 letter does not properly supplement UGO Network's discovery responses and flouts UGO Networks' discovery obligations.

As we also explained in our letter yesterday, we were awaiting confirmation of the supplemental discovery responses from Japan before we could serve Konami's supplemental discovery responses. We received that confirmation today and served Konami's supplemental responses today by overnight courier as you had requested.

In your letter you claim that our actions have somehow made it impossible for you to proceed with a deposition of Konami and so you are adjourning that deposition. As we explained in our October 24, 2003 letter, Konami Corporation is a Japanese corporation based in Japan and can only be deposed pursuant to TBMP § 404.03(b). We informed you that there was

William M. Ried, Esq.  
Natasha Snitkovsky, Esq.  
231349US-1394-33  
Page 2



sufficient time for you to depose Konami in Japan under appropriate procedures if you so desired. You took no action whatsoever to pursue a proper deposition of Konami Corporation in Japan, notwithstanding the discovery procedures available for obtaining evidence from an overseas party. That was your decision, but the results of that decision cannot be blamed on Konami or our firm.

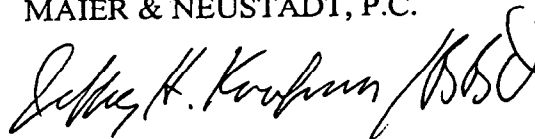
Similarly, as a gesture of good faith, our firm proposed that Konami might make an employee of its U.S. subsidiary available for deposition in Alexandria, Virginia (rather than in California where they are based), if Opposer would permit the deposition of its employees in Alexandria, Virginia or Manhattan. You never responded to this reasonable offer, nor did you propose any alternative dates in the 3 weeks since our letter.

Finally, in your letter you refuse to produce the UGO witnesses named in Konami's Notices of Deposition until after you take the deposition of Konami Corporation. You have no legal basis to refuse to produce these witnesses, who apparently are available for deposition. We ask that you reconsider your position and inform us no later than Tuesday, November 18, 2003, whether UGO Networks will produce its witnesses for the properly noticed depositions on November 24 and 25, 2003. Otherwise, we will need to seek the involvement of the TTAB.

With best regards,

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 21**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



November 13, 2003

Via Facsimile

William M. Ried, Esquire  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

ATTORNEYS AT LAW

JEFFREY H. KAUFMAN  
(703) 412-6404  
JKAUFMAN@OBLON.COM

Re: *UGO Networks, Inc. v. Konami Corporation*  
Opposition No. 91/153,578  
Appln. Serial No.: 76/074,595  
Our Ref: 231349US-1394-33

Dear Mr. Ried:

Among the confidential documents produced on November 12, via UPS Courier, are relevant confidential business records from which information responsive to the following interrogatories may be ascertained. This letter serves to designate those documents pursuant to Rule 33(d) and TBMP § 407.02.

**INTERROGATORY NO. 6:**

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and
- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

Subject to the foregoing objection on the basis of overbreadth, Applicant has produced the following relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d) and TBMP § 407.02: Document Nos. K00003-K00006; K00011-K00012; K00025-K00047; K00054-K00055; K00057-K00132; K00255; K00257-K00258; K00273; K00277; K00279; K00306-K00325; K01498-K01510; K01549-K01562; K01568-K01579; K02164-

William M. Ried, Esquire  
231349US-1394-33  
Page 2



K02165; (a) Document Nos. K00032-K00045; K01488-K01490; K01499-K01504; (b) Document Nos. K00045; K01498-K01504; K01505-K01510; K02130.

**INTERROGATORY NO. 10:**

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

Subject to the forgoing objections, Applicant has produced the following relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d) and TBMP § 407.02: Document Nos. K00120-K00132; K00226-K00227; K00304-K00305; K01487; K01505-K01510.

**INTERROGATORY NO. 17:**

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

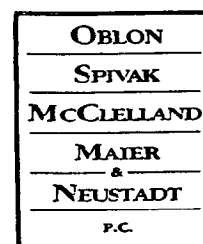
**RESPONSE**

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objection, Applicant states that it is aware of no such documents.

Subject to the forgoing objections, Applicant is aware of no documents relating to consumer confusion, sponsorship or association between Opposer and Applicant. However, Applicant has produced the following confidential internal memoranda reflecting intended market demographics relating to Applicant's mark pursuant to Rule 33(d) and TBMP § 407.02: Document Nos. K00035; K00082; K00126; K00307; K00310; K00313; K00315-K00316; K00320; K00324; K01538; K01542; K01565; K01570.

William M. Ried, Esquire  
231349US-1394-33  
Page 3



**INTERROGATORY NO. 18:**

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements), with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;
- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

**RESPONSE**

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

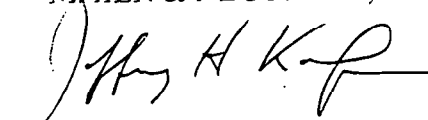
Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Subject to the forgoing objections, Applicant has produced the following relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d) and TBMP § 407.02: Document Nos. K02162-K02163.

We note that the documents designated in this letter may be responsive to more than a single interrogatory and to an interrogatory other than the one for which they are designated above.

Sincerely,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Jeffrey H. Kaufman



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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 22**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

Jeffrey H. Kaufman  
Brian B. Darville  
Jason A. Cody  
OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
1940 Duke Street  
Alexandria, Virginia 22314  
Phone: (703) 413-3000  
Fax: (703) 413-2220

**Counsel for Applicant  
Konami Corporation**



obligations than those required by the Federal Rules of Civil Procedure and the Trademark Rules of Practice.

### INTERROGATORIES

#### INTERROGATORY NO. 1:

Identify each person with knowledge concerning Applicant's use (past, current or planned) of Applicant's Mark in Commerce, including the first use in Commerce of Applicant's Mark.

#### RESPONSE

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

#### SUPPLEMENTAL RESPONSE

Applicant objects to this interrogatory on the basis that the information sought is within the custody or control of third-persons over whom Applicant does not exercise control.

#### INTERROGATORY NO. 2:

Identify each person who participated, in any fashion or capacity, in preparing, filing and/or prosecuting any application to register Applicant's Mark.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**SUPPLEMENTAL RESPONSE**

Subject to the forgoing objections, Applicant states that Yukio Kobayashi, Manager of Konami Corporation's Trademark Group, participated in activities relating to preparing, filing and/or prosecuting the application to register Applicant's Mark.

**INTERROGATORY NO. 3:**

Identify each person who participated, in any fashion or capacity, in the consideration, selection and adoption of Applicant's Mark and in conducting any search or investigation by or on behalf of Applicant concerning Applicant's Mark including, but not limited to, any search or investigation of the records at the United States Patent and Trademark Office or state corporation or trademark records or domain name registration records.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning

of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**SUPPLEMENTAL RESPONSE**

Applicant objects to this interrogatory on the basis that the information sought is within the custody or control of third-persons over whom Applicant does not exercise control.

Subject to the foregoing objections, Applicant states that Yukio Kobayashi, Manager of Konami Corporation's Trademark Group, participated in activities relating to the consideration, selection and adoption of Applicant's Mark.

**INTERROGATORY NO. 4:**

Identify the date of first use of Applicant's Mark in Commerce, if any, and each document upon which Applicant will rely to establish such date.

**RESPONSE**

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**SUPPLEMENTAL RESPONSE**

March 9, 2002. Applicant will rely on its use in connection with the 2002 video game previously produced in connection with this matter to support its date of first use and will produce additional documents responsive to this interrogatory pursuant to Rule 33(d), Fed. R. Civ. P. and TBMP § 407.02.

**INTERROGATORY NO. 5:**

If Applicant used any variation of Applicant's Mark in Commerce prior to the date identified in response to Interrogatory No. 4, identify each such variation and the manner and date of first use of such variation.

**RESPONSE**

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**SUPPLEMENTAL RESPONSE**

Applicant is aware of no other variation of Applicant's Mark used by Applicant in commerce prior to the date identified in response to Interrogatory No. 4.

**INTERROGATORY NO. 6:**

For each year since the date of first use of Applicant's Mark, identify each product or service bearing Applicant's Mark offered for sale or sold in Commerce by Applicant and, as to each such product or service:

- a. state the quantity and the dollar value of sales of each product or service;
- b. identify the channel(s) of commerce through which Applicant offered for sale or sold the product or service; and
- c. identify each and every document reflecting or referring or relating to such offer for sale or sale.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP § 407.02.

**INTERROGATORY NO. 8:**

In connection with each product or service identified in response to Interrogatory No. 6, identify all person(s) who are or have been responsible for:

- a. manufacture or production;
- b. marketing, advertising and promotion; and
- c. sale.

**RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

**SUPPLEMENTAL RESPONSE**

- a. Linda Stackpoole, manufacturing; Dennis Lee and Monique Catley, production and packaging.
- b. Dennis Lee, Rich Naylor, Chris Garske, Tammy Schachter.
- c. Catherine Fowler, Brad Robinson, Matt Robinson, Daniel Castillo, Jean Chung.

**INTERROGATORY NO. 9:**

If Applicant claims to have acquired the right to use or register Applicant's Mark from any other entity, identify:

- a. each such entity;
- b. the date of such acquisition; and
- c. each and every document reflecting, referring to or relating to such acquisition.

## **RESPONSE**

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

## **SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP § 407.02, in response to Opposer's Request for Production No. 43.

## **INTERROGATORY NO. 10:**

Identify the amount of Applicant's expenditures in the United States for the promotion or advertising of goods or services under Applicant's Mark in each year since such goods or services were first advertised or promoted.

## **RESPONSE**

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P.



**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP § 407.02, , in response to Opposer's Request for Production No. 14.

**INTERROGATORY NO. 14:**

Identify each entity that has rendered services on Applicant's behalf in connection with the advertising or promotion of products or services sold or offered for sale under Applicant's Mark and, for each such entity, describe the nature and dates of such service.

**RESPONSE**

Applicant objects to this interrogatory as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

**SUPPLEMENTAL RESPONSE**

Subject to the objections in its original response, the following entities have rendered services on Applicant's behalf in connection with the advertising and promotion of Applicant's products: Vender Help Impact, Shounen-Jump (Viz Communication), Matel, 4 Kids Entertainment, Kids WB, Department X, and Freelance Designer.

**INTERROGATORY NO. 15:**

If Applicant has ever received a statement or opinion from any entity relating to Applicant's adoption of Applicant's Mark or concerning whether there is a likelihood of confusion between Applicant's Mark and a trademark, service mark or trade name used by any other entity, identify:

- a. the entity that rendered the statement or opinion;
- b. each person acting for Applicant who received a written or oral communication of the statement or opinion;
- c. the date(s) Applicant received written or oral communication(s) of the statement or opinion; and
- d. each and every document reflecting, referring to or relating to such statement or opinion.

**RESPONSE**

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the forgoing objections, Applicant states that it is aware of no such information, with the exception of a search report to be produced in connection with Applicant's Responses and Objections to Opposer's First Request for Production of Documents.

**SUPPLEMENTAL RESPONSE**

Applicant declines to provide information regarding comments or opinions of attorneys relating to the results of search results on the basis that such information constitutes privileged

attorney-client communications or information subject to the attorney work-product doctrine.

Such information will not be produced.

**INTERROGATORY NO. 17:**

Identify all surveys, studies, reports, market research tests, memoranda and other documents relating or referring to reports reflecting consumer group or focus group observations concerning Applicant's Mark or reports relating to confusion, sponsorship or association between Opposer and Applicant or Opposer's Mark and Applicant's Mark.

**RESPONSE**

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objection, Applicant states that it is aware of no such documents.

**SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP § 407.02, that include internal informal documents relating or referring to intended consumer demographics.

**INTERROGATORY NO. 18:**

If Applicant has ever entered an agreement or other understanding, written or oral (including, but not limited to, licenses and agency, distributorship and joint venture agreements), with any entity concerning use of Applicant's Mark or goods or services sold or provided thereunder:

- a. identify the date of the agreement or understanding;
- b. identify the parties to the agreement or understanding;

- c. identify all persons who were involved with the negotiation or approval of such agreement or understanding;
- d. detail the quality control actually exercised under the agreement or understanding and the person(s) responsible therefore; and
- e. identify each and every document reflecting, referring or relating to such agreement, undertaking or understanding.

### **RESPONSE**

Applicant objects to this interrogatory on the basis that it is vague and ambiguous.

Applicant objects to this objection as overly broad, harassing and unduly burdensome.

To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

### **SUPPLEMENTAL RESPONSE**

Subject to the foregoing objections, Applicant will produce relevant confidential documents responsive to this interrogatory pursuant to Rule 33(d), Fed.R.Civ.P. and TBMP § 407.02, in response to Opposer's Request for Production No. 43.

### **INTERROGATORY NO. 21:**

Describe the date and circumstances under which Applicant first learned of Opposer's use of Opposer's Mark and identify each document reflecting or referring or relating to such notice.

## RESPONSE

Applicant objects to this interrogatory to the extent that it calls for the production of attorney-client communications or information subject to the attorney work-product doctrine. Such information will not be produced.

Applicant objects to this objection as overly broad, harassing and unduly burdensome. To the extent not otherwise objected to, Applicant will provide only that information which is sufficient to meet the needs of the Interrogatory.

Applicant objects to this interrogatory on the grounds that it seeks the production of trade secret or other confidential research, development or commercial information within the meaning of Rule 26(c)(7), Fed. R. Civ. P. To the extent not otherwise objected to, Applicant will produce representative, responsive, confidential information only after the entry of a suitable protective order by the Board.

Without waiving the foregoing objections, Applicant refers to its response to Request No. 4 of Opposer's First Request for Admissions.

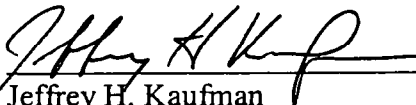
Investigation of this matter is ongoing. Applicant reserves the right to supplement its answer to this interrogatory should the investigation reveal relevant, non-privileged information.

SUPPLEMENTAL RESPONSE

Subject to the objections included in its original response above, Applicant states that Konami of America, Inc. first learned of Opposer's use of Opposer's Mark on December 26, 2002, via internal e-mail correspondence of the same date.

Respectfully submitted,

KONAMI CORPORATION



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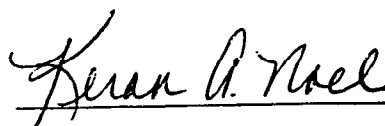
Dated: November 13, 2003

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing **APPLICANT'S SUPPLEMENTAL OBJECTIONS AND ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES** was served on counsel for Opposer, this 13th day of November, 2003, by sending same via First Class Mail, postage prepaid, to:

William M. Ried, Esquire  
WILLKIE FARR & GALLAGHER  
787 Seventh Avenue  
New York, New York 10019-6099

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

UGO NETWORKS, INC.,	)	
	)	
Opposer,	)	
	)	Consolidated Opposition No. 91/153,578
v.	)	Appln. Serial Nos.: 76/074,595
	)	and 76/075,729
KONAMI CORPORATION,	)	
	)	
Applicant.	)	
_____	)	

**EXHIBIT 23**

**APPENDIX OF MATERIALS IN SUPPORT OF  
KONAMI CORPORATION'S BRIEF IN OPPOSITION TO  
OPPOSER'S MOTION TO COMPEL AND PRECLUDE**

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Konami Corporation**