

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of)	
)	
TELEBRANDS CORP.,)	Docket No. 9313
)	
TV SAVINGS, LLC, and)	PUBLIC DOCUMENT
)	
AJIT KHUBANI.)	
_____)	

RESPONDENTS' FIRST SET OF INTERROGATORIES

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice, Respondents Telebrands Corp. ("Telebrands"), TV Savings, LLC ("TV SAVINGS") and Ajit Khubani ("Khubani") hereby propound these Interrogatories to which complaint counsel shall respond separately and fully, in writing and under oath.

INSTRUCTIONS

1. These instructions and definitions should be construed to require answers based upon the actual or constructive knowledge of, and information available to, complaint counsel as well as your attorneys, representatives, investigators, and others acting on your behalf.

2. If, after exercising due diligence, you cannot answer the following Interrogatories, so state and answer to the extent possible, specifying your inability to answer to the remainder. State whatever knowledge or information you have regarding the unanswered portion, and identify and describe in detail what you did in attempting to secure the unknown information. Estimated dates should be given when, but only when, exact dates cannot be supplied. Any estimates should be identified as such. The sources and means of derivation of each estimation should be specifically set forth.

3. If you object to a portion or an aspect of any Interrogatory, state the grounds of your objection with specificity and answer the remainder of the Interrogatory.

4. If, in answering these interrogatories, you encounter any ambiguities when construing a question, instruction, or definition, your answer shall set forth the matter deemed ambiguous and the construction used in answering.

5. Where a claim of privilege is asserted in responding or objecting to any discovery requested in these interrogatories and information is not provided on the basis of such assertion, you shall, in your response or objection, identify the nature of the privilege (including work product) which is being claimed. When any privilege is claimed, you shall indicate, as to the information requested, whether (a) any documents exist, or (b) any oral communications took place.

6. If you elect to specify and produce business records in answer to any interrogatory, the specification shall be in sufficient detail to permit Respondents to locate and identify the business records from which the answer may be ascertained.

7. For every interrogatory that requests you to state the basis of an allegation, contention, assertion, or claim, answer as follows:

(a) Describe, in specific detail of the factual basis for the allegation, contention, assertion, or claim;

(b) Identify every person who has knowledge of facts relating to the allegation, contention, assertion or claim, by providing the person's full name, present or last known address and telephone number, and the present or last known place of employment (Once a person has been identified in accordance with this

subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person);

- (c) Identify every communication relating to the allegation, contention, assertion or claim;
- (d) Identify every document relating to the allegation, contention, assertion or claim by providing a specific and individual identification of each document or thing, including the type of document or thing and a brief description consisting at least of (i) the type of document or thing; (ii) its general subject matter; (iii) its date; (iv) its author(s), addressee(s) and recipient(s); (v) the present location of each document or thing and each copy thereof; (vi) the name, job title, employer, and address of the custodian of the document or thing; and (vii) if a copy of the document or thing has been previously produced to any party, so state and specifically and individually describe the previously supplied copy by production numbers or otherwise.

DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these Interrogatories is intended to have the broadest meaning permitted under the Federal Trade Commission's Rules of Practice.

A. The terms "Complaint Counsel," "you," or "your" means the United States Federal Trade Commission, including its employees, agents, attorneys, consultants, representatives, officers, and all other persons acting or purporting to act on its behalf, other than the entities that are identified in Practice Rule 3.35(a) as being outside the scope of discovery by interrogatories.

B. The term “EMS device,” “EMS devices,” or “EMS products” means electronic muscle stimulation devices including powered muscle stimulation products, as that term is defined in 21 C.F.R. 890.5850, and transcutaneous electric nerve stimulator products, as that term is defined in 21 C.F.R. 882.5890, and which are regulated by the Food and Drug Administration.

C. The term “person” is defined as any natural person or any business, legal or governmental entity or association.

D. The term “communication” means the transmittal of information by any means.

E. The terms “document” and “documents” are synonymous in meaning and equal in scope to the usage of the terms as defined by 16 C.F.R. § 3.34(b), and includes, without limitation, any written material, whether typed, handwritten, printed or otherwise, and whether in draft or final form, of any kind or nature, or any photograph, photostat, microfilm or other reproduction thereof, including, without limitation, each note, memorandum, letter, telegram, telex, circular, release, article, report, prospectus, memorandum of any telephone or in-person conversation, any financial statement, analysis, drawing, graph, chart, account, book, notebook, draft, summary, diary, transcript, computer data base, computer printout or other computer generated matter, contract or order, technical report, laboratory report or notebook, engineering report, patent, registration or mark, application for a copyright, trademark or patent, patent appraisal, infringement search or study, and all mechanical and electronic audio and video recordings or transcripts thereof, and other data compilations from which information can be obtained and translated; if necessary, by Defendant/Counter-Plaintiffs into reasonably usable form. Electronic mail is included within the definition of the terms “document” or “documents.” A draft or non-identical copy is a separate document within the meaning of the term.

F. The term “relating” (or “relate”) shall mean: pertaining, describing, referring, evidencing, reflecting, discussing, showing, supporting, contradicting, refuting, constituting, embodying, containing, concerning, identifying, or in any way logically or factually connected with the matter discussed.

G. The words “or” and “and” shall be read in the conjunctive and not in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of a request. The use of a verb in any tense shall be construed as the use of the verb in all other tenses and the singular form shall be deemed to include the plural, and vice-versa. The singular form of any noun shall be deemed to include the plural, and vice-versa.

H. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. “All” means “any and all”; “any” means “any and all.” “Including” means “including but not limited to.” “And” and “or” encompass both “and” and “or.” Words in the masculine, feminine or neuter form shall include each of the other genders.

INTERROGATORIES

INTERROGATORY NO. 1

Identify every representation that you contend is false or misleading that the Respondents expressly made in the Ab Force advertisements and state the basis for your contention.

INTERROGATORY NO. 2

Identify every advertising claim that you contend is false or misleading that the Respondents made by implication in the Ab Force advertisements and state the basis for your contention.

INTERROGATORY NO. 3

Identify every EMS device other than Ab Tronic, AB Energizer, and Fast Abs that was offered for sale, sold or distributed in the United States during or before the time period in which the Ab Force advertisements appeared, including, without limitation, the person who offered for sale, sold or distributed each such device and the sale price.

INTERROGATORY NO. 4

If you contend that any EMS device identified in your answer to Interrogatory No. 3 was referenced, either expressly or by implication, in the Ab Force advertisements, state the basis for your contention.

INTERROGATORY NO. 5

If you contend that there were EMS devices other than Ab Tronic, AB Energizer, and Fast Abs that were offered for sale, sold or distributed in the United States during or before the time period in which the Ab Force advertisements appeared that were not referenced, either expressly or by implication, in the Ab Force advertisements, state the basis for your contention.

INTERROGATORY NO. 6

If you contend that Respondents made the representations identified in paragraph 19 of the Complaint, either expressly or by implication, without reference to other EMS products or infomercials, state the basis for your contention.

INTERROGATORY NO. 7

Identify every evaluation, survey, or study conducted by you or on your behalf to assess consumer reaction to or consumer perception, comprehension, understanding, "take-away," or

recall of statements or representations made in the Ab Force advertisements or in any EMS device advertisement.

INTERROGATORY NO. 8

Describe all investigations conducted by you or on your behalf relating to any advertising claims or representations relating to the Ab Force product or any other EMS device and describe every conclusion regarding such investigation, and identify all persons with knowledge of such investigation.

INTERROGATORY NO. 9

Identify each person whom you expect to call as an expert witness at hearing, state the subject matter on which the expert is expected to testify, and state the substance of the facts and opinions on which the expert is expected to testify and a summary of the grounds for each opinion.

Dated: October 23, 2003

Respectfully submitted,

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CERTIFICATES OF SERVICE AND CONFORMITY

I hereby certify that on October 23, 2003, pursuant to Federal Trade Commission Rules of Practice 4.2(c) and 4.4(b), I caused the foregoing Respondents' First Set of Interrogatories to be filed and served as follows:

- (1) an original and one (1) paper copy filed by hand delivery and an electronic copy in Microsoft Word format filed by e-mail to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Rm. H-159
Washington, D.C. 20580
E-mail: secretary@ftc.gov

- (2) one (1) paper copy served by hand delivery to:

The Honorable Stephen J. McGuire
Chief Administrative Law Judge
600 Pennsylvania Avenue, N.W.
Rm. H-112
Washington, D.C. 20580

- (3) one (1) paper copy by first-class mail and by facsimile to:

Constance M. Vecellio, Esq.
Senior Counsel
600 Pennsylvania Avenue, N.W.
NJ-2115
Washington, D.C. 20580
Fax: (202) 326-2558

- (4) and one (1) paper copy each by first class mail to:

Walter Gross
600 Pennsylvania Avenue, N.W.
NJ-2127
Washington, D.C. 20580

Amy Lloyd
600 Pennsylvania Avenue, N.W.
NJ-2260
Washington, D.C. 20580

I further certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original, and that a paper copy with an original signature is being filed with the Secretary of the Commission on the same day by other means.

Theodore W. Atkinson, Esq.