

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

In the Matter of )

LENTEK INTERNATIONAL, INC. )  
a corporation, and )

JOSEPH DUREK and LOU LENTINE, )  
individually and as officers )  
of the corporation. )

) DOCKET NO. 9303  
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**OBJECTIONS OF RESPONDENT LENTEK INTERNATIONAL, INC. TO  
COMPLAINT COUNSEL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to § 3.37(b) of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings ("Rules of Practice"), 16 C.F.R. § 3.37(b), Respondent Lentek International, Inc. ("Respondent"), a corporation, by its attorneys, Foley & Lardner hereby submits its objections to Complaint Counsel's First Request for Production of Documents to Respondents ("Request") issued on November 5, 2002. Each request is restated below, along with any applicable objections. Notwithstanding these objections, Respondent will commence its production in response to the following Request to the extent possible. Such production shall not constitute a waiver of any applicable objection or privilege.

**GENERAL OBJECTIONS**

1. Respondent objects to the Request to the extent that it seeks information that may be protected by the attorney-client privilege, the work-product doctrine, the joint defense privilege or any other privilege.

2. Respondent objects to the Request to the extent that it seeks to impose obligations broader than those required by or authorized by the Federal Trade Commission Rules of Practice for Adjudicative Proceedings or any applicable order or rule of this Court.

3. Respondent objects to the Request to the extent that it may not reasonably be expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent.

4. Respondent objects to the Request to the extent that it is unduly burdensome, impermissibly vague or ambiguous or requires unreasonable efforts or expense on the part of Respondent.

5. Respondent objects to the Request to the extent it requires Respondent to answer the Request on behalf of third parties or other respondents in this case. In particular, Complaint Counsel's definition of "Lentek" is overly broad because it requires Respondent to respond on behalf of other entities.

7. Respondent's answers to this Request are given without prejudice to Respondent's right to produce evidence of any subsequently discovered facts. The failure of Respondent to object to any production request on a particular ground may not be construed as a waiver of its right to object on any additional ground(s).

These General Objections shall apply to each Request herein and shall be incorporated by reference as though set forth fully in each of the responses to follow.

#### DOCUMENT SPECIFICATIONS

1) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, all draft and final advertisements for the Challenged Lentek Products. Provide the original print advertisement if available, or, if not available, color copies of such advertisements or packaging. In the case of radio advertisements, provide a tape cassette and a script, as well as any audio out-takes. In the case of television advertisements, provide a VHS cassette and script or storyboard, as well as any video out-takes. In the case of Internet or other on-line advertisements, provide a print-out of all screens displayed in the advertisement and identify the site, forum, or address.

**Response:** Respondent objects to this Request to the extent that it is overly burdensome and to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. To respond to this Request, Respondent must undertake an exhaustive review of its internal documents. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

2) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, all documents referring or relating to the creation, development, modification, or placement of advertisements for the Challenged Lentek Products, including all contracts and dissemination schedules.

**Response:** Respondent objects to this Request to the extent that it is overly burdensome and seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. To respond to this Request, Respondent must undertake an exhaustive review of its internal documents. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

3) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, all documents referring or relating to marketing plans or strategies, or market research, for the Challenged Lentek Products.

**Response:** Respondent objects to this Request to the extent that it is overly burdensome and seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. To respond to this Request, Respondent must undertake an exhaustive review of its internal documents. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

4) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, all documents referring or relating to the expected, intended, desired, or actual consumer perception, message or inference of any advertisement for the Challenged Lentek Products.

**Response:** Respondent objects to this Request to the extent that it is overbroad, impermissibly vague or ambiguous and to the extent that it requires Respondent to speculate regarding “the actual consumer perception, message or inference of any advertisement” for the Challenged Lentek products. Respondent further objects to this Request to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

5) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, all documents referring or relating to complaints about, or questions or comments about, the Challenged Lentek Products or about advertisements for the Challenged Lentek Products, including lawsuits, government or Better Business Bureau inquiries, warranty claims, refund requests, user letters, user electronic mail, and records of user phone calls, however recorded or maintained.

**Response:** Respondent objects to this Request to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Respondent further objects to this Request to the extent that it is overbroad because it requests “complaints about, or questions, or comments about, the Challenged Lentek Products” that may not be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defense of any respondent. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

6) All documents substantiating, confirming, contradicting, qualifying, calling into question, or tending to refute any advertising claims for the Challenged Lentek Products, including the alleged representations regarding the Challenged Lentek Products, regardless of whether you contest that the claims alleged in the Commission's Complaint were made.

**Response:** Respondent objects to this Request to the extent that it calls for a legal conclusion and seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Further, Respondent objects to this response because it is overbroad to the extent that it is not sufficiently limited in duration. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

7) All documents referring or relating to the amount, type, or quality of testing or other substantiation required by state or federal law, or by industry practice, for claims made in advertising for any air cleaning product, pest control product, or insect control product, including the Challenged Lentek Products, or for consumer products in general.

**Response:** Respondent objects to this Request to the extent that it calls for a legal conclusion and seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Further, Respondent objects to this response because it is overbroad to the extent that it is not sufficiently limited in duration and seeks information about products not at issue in this proceeding. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

8) All documents referring or relating to the development, manufacturing, chemical or physical properties, or effects (beneficial or harmful) of the Challenged Lentek Products.

**Response:** Respondent objects to this Request to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Further, Respondent objects to this response because it is overbroad to the

extent that it is not sufficiently limited in duration. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

9) All documents referring or relating to testing or demonstrations (including any proposed, incomplete, or aborted testing or demonstrations) of any air cleaning product, pest control product, or insect control product, including all procedures and protocols; documents evidencing the identity of each such product tested; notes and records; data; statistical and technical analyses; and draft and final test reports.

**Response:** Respondent objects to this Request to the extent that it calls for a legal conclusion and seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Respondent further objects to this Request to the extent that it is overbroad because it seeks information about products not at issue in this proceeding. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

10) All documents referring or relating to both Joseph Durek and the advertising, labeling, offering for sale, sale, or distribution of any of the Challenged Lentek Products or the substantiation or contradiction of any advertising claims for the Challenged Lentek Products, including the alleged representations regarding the Challenged Lentek Products.

**Response:** Respondent objects to this Request to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

11) All documents referring or relating to both Lou Lentine and the advertising, labeling, offering for sale, sale, or distribution of any of the Challenged Lentek Products or the substantiation or contradiction of any advertising claims for the Challenged Lentek Products, including the alleged representations regarding the Challenged Lentek Products.

**Response:** Respondent objects to this Request to the extent that it seeks documents that may be subject to the attorney-client privilege, work-product doctrine or any other applicable privilege. Subject to and without waiving this objection, Respondent will provide responsive, non-privileged documents.

12) All income tax returns for Lentek, Joseph Durek, and Lou Lentine for the years 1999, 2000, 2001, and all requests for an extension for filing any tax return, including any statement of the reasons for which any extension was requested.

**Response:** Respondent objects to this Request on the basis that it is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent.

13) Documents sufficient to show the total number of units of each of the Challenged Lentek Products sold each year and the gross revenue from the sale of each product by year, including the names and addresses of each wholesaler or retailer that purchased any of the products, including internet retailers and internet catalogs.

**Response:** Respondent objects to this Request on the basis that it is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent. Respondent further objects to this Request to the extent that it seeks documents that may be subject to confidentiality agreements with third parties. Respondent also objects to this Request on the basis that it is unduly burdensome.

14) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, documents sufficient to show the total number of units of each of the Challenged Lentek Products returned to Lentek, including the names and addresses of each wholesaler or retailer that returned the product.

**Response:** Respondent objects to this Request to the extent it is overbroad and seeks documents that may be subject to confidentiality agreements with third parties. Subject to and without waiving these objections, Respondent will provide responsive, non-privileged documents.

15) Documents sufficient to show the amounts that the respondents have expended to pay experts and to pay for research or studies relating to the performance of the Challenged Lentek Products, broken down by expert and by study.

**Response:** Respondent objects to this Request because it is overbroad to the extent that it is not sufficiently limited in duration. Respondent also objects to this Request to the extent that it seeks documents that may be subject to confidentiality agreements with third parties. Respondent further objects to this Request on the basis that it is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent.

16) For the period beginning August 27, 1999, and continuing through the date of service of these Document Requests, documents sufficient to show the amounts that the respondents have expended to pay for the creation, development, modification, or placement of advertisements for the Challenged Lentek Products, broken down by advertisement.

**Response:** Respondent objects to this Request on the basis that it is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent.



17) Documents sufficient to show the corporate structure of Lentek International, Inc., and the role of its key personnel, including Articles of Incorporation; By-laws; documents showing the date and place of the formation of and the form of organization of Lentek International, Inc., (for example, corporation or partnership); documents identifying Lentek International, Inc.'s parent organization, if any, and all subsidiaries and affiliates; the names of all directors of Lentek International, Inc.; documents identifying the name and title of all officers, supervisors, and managers of Lentek International, Inc.; organizational charts for Lentek International, Inc.; documents describing the duties, responsibilities and authority of Joseph Durek, Lou Lentine, and all other officers, managers, directors, and supervisors employed by Lentek International, Inc.

**Response:** Respondent objects to this Request because it is overbroad to the extent that it is not sufficiently limited in duration and is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent. Respondent further objects to this Request to the extent that it seeks documents that may be subject to attorney-client privilege, work-product doctrine or any other applicable privilege. Subject to and without waiving these objections, Respondent will provide any responsive, non-privileged documents.

18) Any documents referring or relating to any delegation of authority to Joseph Durek or Lou Lentine to engage in any act on behalf of or act as agent for Lentek.

**Request:** Respondent objects to this Request as overbroad to the extent that it is not sufficiently limited in duration and is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent. Subject to and without waiving these objections, Respondent will provide any responsive, non-privileged documents.

19) Any correspondence between you and the U.S. Environmental Protection Agency.

**Response:** Respondent objects to this Request as overbroad to the extent that it is not sufficiently limited in duration. Respondent further objects to this Request on the basis that it is not reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief or to the defenses of any respondent.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that this 30<sup>th</sup> day of September 2002, the original, one paper copy, and one electronic copy of the foregoing Objections of Respondents Lentek International, Inc., to Complaint Counsel's First Request for Production of Documents to Respondents were filed with the Secretary of the Commission, and that one copy was served by hand delivery to the Honorable D. Michael Chappell, Administrative Law Judge at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, and that four copies were served by hand delivery to Complaint Counsel, listed below:

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Federal Trade Commission  
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Elena I. Paoli  
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Honorable D. Michael Chappell,  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

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Alicia J. Batts, Esq.