



## CONTINENTAL ENTERPRISES

P.O. BOX 40000  
INDIANAPOLIS, IN 46240

ph: 317.616.0523  
fax: 317.666.3455

### Continental Enterprises-Background

Continental Enterprises is a consulting firm that has specialized in intellectual property issues for nearly twenty years. We provide investigative, licensing and enforcement services for clients in a variety of fields including fashion, food and beverage and firearms/defense.

While each client has specific needs and desires when it comes to monitoring their intellectual property (IP), we have built several Programs that have proven successful. Our in-house Programs include monitoring eBay and Café Press and working with those sites to have tarnishments and infringements removed. We also work in the field to uncover infringements and counterfeits as well.

### Goals and Responsibilities of Online Investigator

The goal of the Online Investigator is to search the internet for infringements and tarnishments that violate the trademark rights of our clients. We are particularly interested in items which are available for sale; therefore things found listed on blogs, forums, and photohosting websites are generally disregarded unless it can be shown that the item in question is being sold elsewhere. As mentioned above, we also have ongoing programs which monitor eBay for several of our clients so it is not necessary to search there. The most common items advertised and sold involve tarnishments. (See "Terms" section for more information on tarnishments.)

When you are ready to begin your searching, you will receive further instructions regarding what clients to search for and how to report your findings. Once reported, your findings become "case lead discoveries" and each will be thoroughly reviewed and cross-referenced with our databases to ensure we have not addressed that target in any other case. If the lead is new, a case will be opened and you will receive credit for the discovery. If the lead has been seen before, no credit will be given. You will receive general feedback regarding your findings after they have been reviewed. If more than one person finds the same lead, credit will go to the person who discovered it first.

As you start out, you will inevitably find several items which we are currently investigating or have in the past. Please do not be discouraged if your initial feedback says that none of your discoveries have been opened as cases. Finding leads that we are already looking in to is actually promising – It means you've found something that did become a case! Moreover, if the lead was investigated several years ago and a legal settlement reached but the target is still selling the item, we may re-open the case.



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.518.0523  
fax: 317.566.2453

It is important to note that infringements range in content from religious references to words or images that may be salacious in nature. If you find the latter to be too offensive, there are many more infringements out there to be found.

Reimbursement

For each lead you find that becomes a case, you will receive \$20.00. You may search as little or as much as you like, but bear in mind that your chances of receiving case credit and, therefore, money, will increase if you report more GOOD discoveries. You will be paid on a biweekly basis in the form of a check sent to the mailing address you have provided.

Confidentiality Agreement

Included with this packet is a CONFIDENTIALITY and NON-COMPETE AGREEMENT. Please read this very carefully. If you do not understand any of the content of the agreement, do not hesitate to ask questions. Sign and date the agreement and return the *original* to the address listed above. You may make a copy for your own records, but we must have the original record on file before you are able to begin working with Continental Enterprises.

Declaration of Receipt and Understanding of Documents

By signing and dating below, you are acknowledging that you have received, read, and understand all sections of this document. Your signature indicates that you agree with the assignments you will be performing and the reimbursement you will receive. As with the Confidentiality Agreement, please make sure you fully understand all information presented here. Should you have any questions, please ask.

\_\_\_\_\_  
Continental Enterprises      Date

\_\_\_\_\_  
SubContractor      Date



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0523  
fax: 317.866.2453

### Terms

Infringement: the act or an instance of infringing; especially the unauthorized use of copyrighted or patented material or of a trademark, trade name, or trade dress. Infringement of a trademark involves use of one by the infringer that is the same as that of the owner or so similar that it is likely to deceive or to cause confusion or mistake on the part of the average purchaser. Infringement of a copyright involves the copying of a material and substantial portion of the protected work.

Counterfeit: made in imitation so as to be passed off fraudulently or deceptively as genuine; not genuine; forged

Tarnishment: uses elements of a trademark or trademarked design in an offensive or salacious manner: i.e., Booger King instead of Burger King; Shittles instead of Skittles. This is the type of infringement which we would like you to focus on during your initial searching. Following are examples of tarnishments:

#### Genuine Logo



#### Tarnishment





CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0523  
fax: 317.566.2453

## **CONFIDENTIALITY and NON-COMPETE AGREEMENT** **"OUTSIDE INVESTIGATOR"**

This Confidentiality and Non-Compete Agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2010 between Continental Enterprises, an Indiana Corporation with its principal place of business located at 1292 E. 91<sup>st</sup> Street, Indianapolis, IN 46240 ("Continental") and \_\_\_\_\_ an individual being employed, engaged or retained by Continental to act as an investigator ("Investigator").

Continental hereby engages Investigator and Investigator hereby accepts engagement by Continental under the terms and conditions of this Agreement. Investigator specifically acknowledges and agrees that engagement is at-will. Accordingly, nothing in this Agreement shall be construed to create a contract of employment for any term or otherwise to limit Continental's and/or Investigator's right and ability to terminate Investigator's engagement at any time for any reason.

### **1. NO PRIOR RESTRICTIVE COVENANTS**

Investigator warrants that Investigator is not a party nor subject to any restrictive covenant or other agreement in any way limiting Investigator's activities on behalf of Continental and that Investigator will hold Continental harmless from any and all suits and claims arising out of any such restrictive covenants or other such agreements.

### **2. RESTRICTIVE COVENANTS**

Investigator acknowledges that, in connection with Investigator's engagement with Continental, Investigator will become acquainted with certain information relating to and used in the business of Continental, including but not limited to financial information, technical knowledge, methods, trade information, client and customer lists and requirements, marketing and pricing information and all other information, documents and records regarding the business of Continental (collectively referred to as "Confidential Information" for purposes of this Agreement) that Continental has acquired or will acquire at great expense.



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0523  
fax: 317.566.2453

In consideration for Investigator's receipt of the foregoing Confidential Information and Investigator's continued engagement with Continental, Investigator accepts and undertakes the following obligations as essential terms of the Agreement;

a) NON-DISCLOSURE

Investigator agrees that such Confidential Information is the property of Continental and is and will remain proprietary and confidential during and subsequent to Investigator's engagement with Continental. Investigator further agrees that, upon the termination of this Agreement, or the suspension or termination of Investigator's engagement with Continental, Investigator will surrender all such Confidential Information in Investigator's possession and control, and will not thereafter use any such Confidential Information or divulge any such Confidential Information to anyone except as authorized in writing by Continental.

b) NON-COMPETITION

During the term of Investigator's engagement with Continental, Investigator shall not, except as authorized by Continental, (a) perform any services, directly or indirectly, for any person or entity competing, directly or indirectly, with Continental or for any person or company to which Continental is providing services directly or indirectly; (b) own, directly or indirectly, an interest in any entity competing, directly or indirectly, with Continental; (c) compete, directly or indirectly, as a sole proprietor, shareholder, officer, director, manager, partner, employee, salesperson, broker, agent or consultant of or for any other person, firm, corporation, company, partnership or other entity whatsoever, or in any other capacity, with any products or services marketed or offered by Continental; and (d) engage in any activities which could be deemed to be a conflict of interest with Investigator's engagement by Continental.

During the course of Investigator's employment with or engagement by Continental, Investigator agrees that he/she will not (a) work as a private investigator or provide any investigative services to any individual or entity, either directly or indirectly; (b) own, directly or indirectly, an interest in any entity providing investigative services; or (c) receive any kind of remuneration from any person or entity for the provision of investigative services.

In addition, for a period of two (2) years immediately following the termination or suspension of Investigator's engagement with Continental for any reason, by



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0523  
fax: 317.566.2453

either Continental or Investigator, and whether as a sole proprietor, shareholder, officer, director, manager, partner, employee, salesperson, broker, agent or consultant of or for any other person, firm, corporation, company, partnership, individual or other entity whatsoever, or in any other capacity, Investigator will not directly or indirectly:

- (i) Perform services or design, develop or sell products (or assist others to conduct such activities) within Indiana if such products or services are in competition with services performed or products sold by Continental within Indiana. Investigator acknowledges that the geographical restrictions contained in this subparagraph are necessary for the protection of the business and good will of Continental;
- (ii) Perform services or design, develop or manufacture or sell products to or for current customers or clients of Continental (or assist others to conduct such activities) whether or not such customers or clients are located with Indiana, to the extent that such products and services compete with products sold or services performed by Continental;
- (iii) Employ or seek directly or indirectly to employ any person who is an employee of Continental, or solicit or induce such person to terminate his or her employment with Continental (or assist others to conduct such activities); or
- (iv) Solicit any current or potential customers of Continental to perform services related to those provided by Continental.

As used in this paragraph, "products sold" or "services performed" by Continental shall mean such products sold or services performed by Continental directly or indirectly through sub-investigators or others, at any time within a period of one year prior to termination of engagement of Investigator's services with Continental by either Continental or Investigator for any reason; provided, that Investigator shall have been involved in design, product development, research, consulting, sales or marketing activities in connection with such products sold or services performed. As used in the Paragraph, current "customers" or "clients" of Continental shall include all persons or entities which have purchased products or obtained services from Continental directly or indirectly through



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0523  
fax: 317.566.2453

subInvestigators or affiliates, within a period of one year prior to termination of this Agreement; provided that Investigator shall have had direct or indirect involvement (including but not limited to involvement in design, product development, research, consulting, sales or marketing activities) in selling products to and/or performing services for such customers or clients.

c) NON-DISPARAGEMENT

Investigator further agrees that Investigator will not disparage Continental or its products or services to its clients and customers nor to any companies manufacturing products sold by Continental in any manner, directly or indirectly, seek to interfere with disrupt or terminate Continental's relationship with said companies, clients and customers upon termination or suspension of Investigator's engagement with Continental.

**3. CONSENT TO REASONABLENESS**

Investigator specifically agrees and consents to the reasonableness of the above detailed restrictions on competition in each and every respect.

**4. REMEDIES FOR BREACH**

Investigator acknowledges and agrees that any violation of any provision of this Agreement will cause irreparable harm to Continental, that damages for such harm will be incapable of precise measurement, and that as a result, Continental's remedies at law for actual or threatened violations of the provisions of this Agreement will be inadequate to redress the harm caused by such violation.

Therefore, in the event that any such violation occurs, Investigator agrees that Continental shall be entitled to temporary and permanent injunctive relief against such violations, without requirement for a bond or other security and to recover attorney's fees and all reasonable out-of-pocket costs and disbursements incurred by Continental in the enforcement of these covenants.

To the extent that Investigator should breach any of the provisions contained in this Agreement, Continental shall be entitled to recover liquidated damages from Investigator in the amount of Fifteen Thousand Dollars (\$15,000) for each breach. Investigator agrees that this liquidated damages provision is reasonable



CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.218.0523  
fax: 317.966.2453

and not intended to be a penalty, and that the amount to be paid is not greatly disproportionate to the loss likely to be sustained by Continental as a result of a breach. Investigator agrees that in the event it breaches the provisions of this Agreement, Continental may pursue its remedies in any court of general jurisdiction in the State of Indiana. Nothing herein shall be deemed to deprive Continental from pursuing any additional legal or equitable remedies it may have for any breach of any of the provisions of this Agreement.

**5. EXTENTION OF COVENANT NOT TO COMPETE IN EVENT OF BREACH**

If a court of competent jurisdiction finds that Investigator has violated any of the restrictions set forth in paragraph 2, "Restrictive Covenants", the period of all restrictions shall be extended by the number of days that the court determines Investigator to have been in violation of such restriction.

**6. TERMINATION**

Investigator's engagement with Continental may be terminated by either party, at any time, with or without cause. Investigator and Continental understand and agree that this Agreement survives the termination of Investigator's engagement with Continental.

**7. ENTIRE AGREEMENT**

This Agreement constitutes the full and complete Agreement between the parties with regard to the subject matter addressed and supersedes all previous agreements and/or commitments between the parties, whether oral or written, and the parties further agree that no verbal or other statements, discussions or impressions other than those provisions contained in this Agreement have been relied upon by either party in executing this Agreement.

**8. NON-WAIVER, MODIFICATION or AMENDMENT**

No waiver, alteration or modification of any provisions of this Agreement shall be valid and binding unless in writing and signed by both parties and made a part of this Agreement. Furthermore, Continental's failure to exercise or delay in exercise of any right under this Agreement shall not operate nor be construed as a waiver or abandonment of that or any other right.





CONTINENTAL ENTERPRISES

P.O. BOX 40009  
INDIANAPOLIS, IN 46240

ph: 317.818.0521  
fax: 317.566.2453

**9. SEVERABILITY**

The parties agree that the invalidity or unenforceability of any provision hereof, including but not limited to any of the individual restrictions in paragraph 2 "Restrictive Covenants", shall in no way affect the validity or enforceability of any other provision or restriction, including the application of provisions of paragraph 2, "Restrictive Covenants". In addition, in the event that any court of competent jurisdiction shall refuse to enforce any restriction or requirement of paragraph 2, then such requirement or restriction shall be deemed modified to restrict the activities addressed in such requirement or the restriction to the maximum extent in time, area or otherwise which shall be enforceable under applicable law.

**10. GOVERNING LAW**

This Agreement shall be construed and interpreted in accordance with the laws of the State of Indiana, exclusive of its choice of law provisions. With respect to any action or claim for the alleged breach of, or which in any way relates to, this Agreement, Investigator agrees to submit to the exclusive jurisdiction (personal and subject matter) and venue of the State of Indiana. If any action or claim for breach of this Agreement is brought, Continental shall be entitled to an award of its costs and attorneys' fees.

**11. VOLUNTARINESS**

Investigator acknowledges that he/she has read the entire Agreement and that he/she fully understands and accepts the terms of this Agreement. Investigator further acknowledges that he/she has had the opportunity, if desired, to obtain legal advice prior to signing this Agreement.

\_\_\_\_\_  
Karl Manders  
President, Continental Enterprises

\_\_\_\_\_  
Date

\_\_\_\_\_  
Investigator

\_\_\_\_\_  
Date