EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Dallas Division

M3Girl Designs, LLC	§	
Plaintiff,	§	
	§	
v.	§	**Action No. 3:09CV2390-F**
	§	
Blue Brownies, LLC, Charlotte Liles,	§	
and Krista Dudte,	§	
Defendants.	§	

PLAINTIFF'S RESPONSES TO DEFENDANT'S FIRST SET OF INTERROGATORIES PURSUANT TO RULE 33, FED. R. CIV. P.

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff M3 Girl Designs, LLC ("M3 Girl Designs") serves the following objections and supplemental responses to Defendants Liles, Dudte, and Blue Brownies, Inc. (collectively "Defendants Blue Brownies") Interrogatories (the "Interrogatories").

RESERVATION OF RIGHTS AND GENERAL OBJECTIONS

The following reservation of rights and general objections apply to each of the Interrogatories:

1. M3 Girl Designs reserves the right to modify, alter, amend, or supplement any of its objections and responses to the Interrogatories based on any subsequently obtained facts, information, or documents.

2. M3 Girl Designs objects to each definition and instruction and to each Interrogatory to the extent it seeks information or documents that are subject to the attorney-client privilege, work product doctrine, joint defense or common interest privilege, the protection afforded to settlement discussions, any agreement between

parties, any Court Order or any other privilege, immunity, or protection provided by law, or that are trial preparation materials (collectively, "Privileged Materials"). No Privileged Materials will be produced or disclosed. Additionally, an objection based on the attorney-client privilege and/or work product doctrine or other privilege, immunity or protection should not be construed as a representation that such information exists or existed. Such objection indicates only that the Interrogatory is of such a scope as to embrace subject matter protected by the attorney-client privilege and/or work product doctrine, or other privilege, immunity or protection. Production, inadvertently or otherwise, of any information subject to any such privilege, protection or doctrine should not constitute or be deemed to constitute a waiver of any privilege or other immunity from production.

3. M3 Girl Designs objects to each definition, instruction, and Interrogatory to the extent it purports to impose obligations beyond those imposed by the Federal Rules of Civil Procedure, including, without limitation, Fed. R. Civ. P. 26 and 33, the Federal Rules of Evidence, the Local Rules of the Northern District of Texas, or the Court's Order(s).

4. M3 Girl Designs objects to the Defendants' Interrogatories to the extent that it attempts to obtain work product, attorney-client privileged information or other privileged information regarding the pre-suit filing investigation of the legal and factual claims made in the Complaint. There is no duty to disclose such privileged and confidential information under the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

5. M3 Girl Designs objects to the Interrogatories as unduly burdensome to the extent they purport to require M3 Girl Designs to search M3 Girl Designs' facilities and inquire of M3 Girl Designs' representatives other than those facilities and representatives that would reasonably be expected to have responsive information. M3 Girl Designs' responses are based upon (i) a reasonable search and investigation of facilities and files that could reasonably be expected to contain responsive information, and (ii) inquiries of M3 Girl Designs' representatives who could reasonably be expected to possess responsive information.

6. M3 Girl Designs objects to the Interrogatories to the extent they purport to seek information that is already within Defendants Blue Brownies' possession, custody or control or that is a matter of public record or equally available to Defendants Blue Brownies, or has been provided to Defendants Blue Brownies through their subpoenas served on third parties.

7. M3 Girl Designs objects to the Interrogatories to the extent they seek information that is not relevant to a claim or defense of any party and/or is not reasonably calculated to lead to the discovery of admissible evidence.

8. M3 Girl Designs objects to each Interrogatory to the extent the answer may be derived or ascertained from documents that M3 Girl Designs produces in this action pursuant to Fed. R. Civ. P. 33(d). In such instance, M3 Girl Designs reserves the right to produce documents from which the answer to the Interrogatory may be derived or ascertained.

9. M3 Girl Designs objects to the extent that the Interrogatories, by virtue of the definitions or otherwise, seek to define any person or entity other than M3 Girl

Designs as having a duty to respond or provide information. These Interrogatories are being answered by and on behalf of M3 Girl Designs.

10. M3 Girl Designs objects to the Interrogatories to the extent they seek to impose on M3 Girl Designs an obligation to investigate or obtain information from third parties that are not within the control of M3 Girl Designs. To the extent M3 Girl Designs has within its possession, custody or control discoverable information called for by these Interrogatories, it will be provided subject to any general or specific objection which may be made.

SPECIFIC RESPONSES TO INTERROGATORIES

M3 Girl Designs' responses to the Interrogatories are all made subject to and without waiver of the foregoing reservation of rights and general objections. To the extent that M3 Girl Designs cites specific objections when objecting to a particular Interrogatory, those specific objections are set forth because they are believed to be particularly applicable to the specific Interrogatory and are not to be construed as a waiver of any general objection to such Interrogatory. Specifically incorporating each of the foregoing general objections into each and every response below, and without waiving said objections, M3 Girl Designs responds as follows:

Interrogatories

1. Identify each copyrighted bottle cap design of Plaintiffs which Plaintiff has asserted to be an infringement and identify each corresponding bottle cap design that Plaintiffs contend is the basis of and infringement claim.

RESPONSE TO INTERROTORY NO.: 1:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this

Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

At the present time, no copyrighted works are being asserted in this action. As no copyrights are at issue in this matter, M3 Girl Designs objects to the relevancy of this Interrogatory. Accordingly, there is no responsive information to provide to the Defendants in response to this Interrogatory.

2. Identify each pre-existing work or design and its source that was used as all or part of Plaintiffs bottle cap design placed in any of Plaintiff's bottle cap designs.

RESPONSE TO INTERROTORY NO.: 2:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant

to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

At the present time, no copyrighted works being asserted in this action. Pre-existing works or designs and the source of pre-existing works only have relevancy with respect to copyright claims. As no copyrights are at issue in this matter, M3 Girl Designs objects to the relevancy of this Interrogatory. Accordingly, there is no responsive information to provide to the Defendants in response to this Interrogatory.

3. Identify the date of first publication of each of Plaintiff's copyrighted works.

RESPONSE TO INTERROTORY NO.: 3:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

At the present time, no copyrighted works are being asserted in this action. As no copyrights are at issue in this matter, M3 Girl Designs objects to the relevancy of this Interrogatory. Accordingly, there is no responsive information to provide to the Defendants in response to this Interrogatory.

4. Identify all persons who you believe have knowledge of relevant facts and describe the issues upon which you believe they have knowledge.

RESPONSE TO INTERROTORY NO.: 4:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required

by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

Discovery is proceeding and documents were recently produced by the Defendants. As such, M3 Girl Designs objects to this Interrogatory as premature. M3 Girl Designs incorporates the information set forth in its Initial Disclosures, and reserves the right to supplement this response further as discovery proceeds in this matter. M3 Girl Designs also objects to this Interrogatory to the extent that it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

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

RESPONSE TO INTERROTORY NO.: 5:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to

the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

M3 Girl Designs' Discovery is progressing and the Plaintiff will designate expert witnesses in compliance with Rule 26 when required to do so under the Scheduling Order. M3 Girl Designs objects to this Interrogatory to the extent that it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

6. If you contend that you have been injured or damaged, describe the injuries and damages.

RESPONSE TO INTERROTORY NO.: 6:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required

by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

The Amended Complaint sets forth the claims at issue in this matter. For the federal trademark and trade dress claims, the Trademark Act states that the trademark holder is entitled "to recover (1) defendant's profits, (2) any damages sustained by the plaintiff, and (3) the costs of the action." 15 U.S.C. §1117(a) (emphasis added). The Trademark Act also supports treble of greater of the profits or the Movant's damages, "whichever is greater." 15 U.S.C. §1117(b). If the infringement is intentional (as it is here), "treble damages and attorneys' fees are mandated." *Chanel, Inc. v. Italian Activewear of Florida, Inc.*, 931 F.2d 1472, 1476 (11th Cir. 1991) (*citing* 15 U.S.C.A. § 1117(b)).

The damages to be requested for the state law claims will include disgorgement of the Defendants' profits, an award of damages sustained by the Plaintiff, and the costs/fees of this action. Of particular note on damages sustained by the Plaintiff for all claims, the negative market impact by Blue Brownies on the Plaintiff's pricing structure will be used to support damages equaling the negative impact on the Plaintiff's revenues and profits.

Litigation costs are awarded the prevailing party, and costs can include attorney fees in exceptional cases. Willful infringement is an exceptional case, and Plaintiff M3 Girl Designs will seek attorney fees, expert witness fees, witness fees, and other fees and litigation expenses such as transcripts of court proceedings and depositions. Punitive damages are also available up to treble the base damage award, and Plaintiff M3 Girl

Designs will seek punitive damages. Interest is awarded under 28 U.S.C. § 1961 on both damages and costs. The damages, attorney fees, witness fees, and other litigation costs in this matter are expected to be substantial, but estimating a specific damage amount at the present time is premature based on the discovery taken to date. Plaintiff M3 Girl Designs reserves the right to supplement this disclosure as the case progresses.

Discovery is progressing, and the Defendants only recently produced documents in this matter. As such, Plaintiff M3 Girl Designs objects to this Interrogatory as premature. M3 Girl Designs reserves the right to supplement this response in the future.

7. If you are seeking an award of any sum of money, whether by damages or otherwise, state the full amount of money you seek and describe the manner in which the amount was calculated. Your description should include each element of damage or component of recovery that you seek, the amount sought for each element or component, the manner in which each element or component of the calculation was determined, and should identify the source of each number used in the calculation.

RESPONSE TO INTERROTORY NO.: 7:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required

by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

The Amended Complaint sets forth the claims at issue in this matter. For the federal trademark and trade dress claims, the Trademark Act states that the trademark holder is entitled "to recover (1) defendant's profits, (2) any damages sustained by the plaintiff, and (3) the costs of the action." 15 U.S.C. §1117(a) (emphasis added). The Trademark Act also supports treble of greater of the profits or the Movant's damages, "whichever is greater." 15 U.S.C. §1117(b). If the infringement is intentional (as it is here), "treble damages and attorneys' fees are mandated." *Chanel, Inc. v. Italian Activewear of Florida, Inc.*, 931 F.2d 1472, 1476 (11th Cir. 1991) (*citing* 15 U.S.C.A. § 1117(b)).

The damages to be requested for the state law claims will include disgorgement of the Defendants' profits, an award of damages sustained by the Plaintiff, and the costs/fees of this action. Of particular note on damages sustained by the Plaintiff for all claims, the negative market impact by Blue Brownies on the Plaintiff's pricing structure will be used to support damages equaling the negative impact on the Plaintiff's revenues and profits.

Litigation costs are awarded the prevailing party, and costs can include attorney fees in exceptional cases. Willful infringement is an exceptional case, and Plaintiff M3 Girl Designs will seek attorney fees, expert witness fees, witness fees, and other fees and litigation expenses such as transcripts of court proceedings and depositions. Punitive damages are also available up to treble the base damage award, and Plaintiff M3 Girl

Designs will seek punitive damages. Interest is awarded under 28 U.S.C. § 1961 on both damages and costs. The damages, attorney fees, witness fees, and other litigation costs in this matter are expected to be substantial, but estimating a specific damage amount at the present time is premature based on the discovery taken to date. Plaintiff M3 Girl Designs reserves the right to supplement this disclosure as the case progresses.

Discovery is progressing, and the Defendants only recently produced documents in this matter. As such, Plaintiff M3 Girl Designs objects to this Interrogatory as premature. M3 Girl Designs reserves the right to supplement this response in the future.

8. With respect to any document or thing called for in Defendants' requests to produce which is withheld because it is asserted to contain information relating to matters claimed by Plaintiff to be privileged or exempt from discovery, state the nature of the privilege (including work product) or other exemption from discovery which is being claimed and the facts which support such claim of privilege or exemption and provide the following additional information:

i. the date, identity, and general subject matter of each document;

ii. the identity of each person (other than stenographic or clerical assistants) participating in the preparation of the document;

iii. the identity of each person to whom the contents of the document were communicated by copy, distribution, reading or substantial summarization;

iv. a description of any document or other material transmitted with or attached to the document; and

v. whether any business or nonlegal matter 1s contained or discussed m the document.

RESPONSE TO INTERROTORY NO.: 8:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant

to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

The Plaintiff objects to this Interrogatory as premature. Discovery is proceeding, and the Defendants have only recently produced documents. A privilege listing that contains a listing of pre-filing documents will be provided to the Defendants in due course.

9. Specifically identify the fee arrangement which Plaintiff has with its attorneys.

RESPONSE TO INTERROTORY NO.: 9:

M3 Girl Designs incorporates by reference the foregoing reservation of rights and general objections as if fully set forth herein. M3 Girl Designs objects to this Interrogatory to the extent it calls for the disclosure of information or documents that are Privileged Materials. No Privileged Materials will be produced. Furthermore, M3 Girl Designs objects to this Interrogatory to the extent it seeks information that is not relevant to any party's claim or defense, nor information sought reasonably calculated to lead to the discovery of admissible evidence.

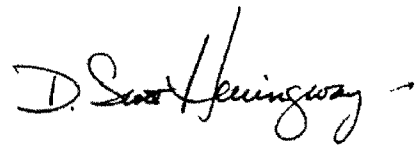
M3 Girl Designs also objects to the Interrogatory to the extent it is overly broad, unduly burden, vague and harassing. M3 Girl Designs also objects to the Interrogatory to the extent it attempts to impose duties upon M3 Girl Designs greater than those required by the Federal Rules of Civil Procedure, the Northern District of Texas' Local Rules and/or the Court's Order(s).

Subject to the General and foregoing objections, the Plaintiff M3 Girl Designs responds as follows.

The fee arrangement between the Plaintiff and his counsel is irrelevant and privileged. The Plaintiff objects to disclosing its fee arrangement with the Plaintiff's counsel for that reason, unless ordered to do so by this Court.

Dated: March 1, 2011

Respectfully submitted,



D. Scott Hemingway
Attorney-in-Charge
Texas Bar No. 09407880
Eugenia S. Hansen
Hemingway & Hansen, LLP
1717 Main Street, Suite 2500
Dallas, Texas 75201
Ph: (214) 292-8301
Fax: (214) 739-5209
Attorneys for M3 Girl Designs, LLC

CERTIFICATE OF SERVICE

I certify that the foregoing was served on Defendants' counsel at the identified address by Federal Express delivery, this 1st day of March, 2011.

Charles W. Hanor
Hanor & Associates
Charles W. Hanor, P.C.
750 Rittiman Road
San Antonio, Texas 78209

D. Scott Hemingway