

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM544115

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Response to Declarations Pursuant to TMEP 503.06(C)		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Lorraine Dille Williams		10/03/2019	INDIVIDUAL: UNITED STATES
Robert Nichols Flint Dille		10/03/2019	INDIVIDUAL: UNITED STATES
RECEIVING PARTY DATA			
Name:	BUCK ROGERS COMPANY, LLC		
Street Address:	115 Airdale Road		
City:	Bryn Mawr		
State/Country:	PENNSYLVANIA		
Postal Code:	19010		
Entity Type:	Limited Liability Company: PENNSYLVANIA		
PROPERTY NUMBERS Total: 8			
Property Type	Number	Word Mark	
Serial Number:	86730089	WILMA DEERING	
Serial Number:	86730085	BLACK BARNEY	
Serial Number:	86730074	DR. HUER	
Serial Number:	86730066	KILLER KANE	
Serial Number:	85512662	BUCK ROGERS IN THE 25TH CENTURY	
Serial Number:	77831393	BUCK ROGERS	
Serial Number:	77831213	BUCK ROGERS	
Serial Number:	77650082	BUCK ROGERS	
CORRESPONDENCE DATA			
Fax Number:	2155686499		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	215-568-6400		
Email:	CBystrycki@vklaw.com		
Correspondent Name:	John J. O'Malley		
Address Line 1:	30 SOUTH 17TH STREET		
Address Line 2:	Suite 1800		
Address Line 4:	PHILADELPHIA, PENNSYLVANIA 19103		
ATTORNEY DOCKET NUMBER:	PFN-1G		

OP \$215.00 86730089

NAME OF SUBMITTER:	John J. O'Malley
SIGNATURE:	/John J. O'Malley/
DATE SIGNED:	10/07/2019

Total Attachments: 93

source=Declaration_+_Exhibits_20191003#page1.tif
source=Declaration_+_Exhibits_20191003#page2.tif
source=Declaration_+_Exhibits_20191003#page3.tif
source=Declaration_+_Exhibits_20191003#page4.tif
source=Declaration_+_Exhibits_20191003#page5.tif
source=Declaration_+_Exhibits_20191003#page6.tif
source=Declaration_+_Exhibits_20191003#page7.tif
source=Declaration_+_Exhibits_20191003#page8.tif
source=Declaration_+_Exhibits_20191003#page9.tif
source=Declaration_+_Exhibits_20191003#page10.tif
source=Declaration_+_Exhibits_20191003#page11.tif
source=Declaration_+_Exhibits_20191003#page12.tif
source=Declaration_+_Exhibits_20191003#page13.tif
source=Declaration_+_Exhibits_20191003#page14.tif
source=Declaration_+_Exhibits_20191003#page15.tif
source=Declaration_+_Exhibits_20191003#page16.tif
source=Declaration_+_Exhibits_20191003#page17.tif
source=Declaration_+_Exhibits_20191003#page18.tif
source=Declaration_+_Exhibits_20191003#page19.tif
source=Declaration_+_Exhibits_20191003#page20.tif
source=Declaration_+_Exhibits_20191003#page21.tif
source=Declaration_+_Exhibits_20191003#page22.tif
source=Declaration_+_Exhibits_20191003#page23.tif
source=Declaration_+_Exhibits_20191003#page24.tif
source=Declaration_+_Exhibits_20191003#page25.tif
source=Declaration_+_Exhibits_20191003#page26.tif
source=Declaration_+_Exhibits_20191003#page27.tif
source=Declaration_+_Exhibits_20191003#page28.tif
source=Declaration_+_Exhibits_20191003#page29.tif
source=Declaration_+_Exhibits_20191003#page30.tif
source=Declaration_+_Exhibits_20191003#page31.tif
source=Declaration_+_Exhibits_20191003#page32.tif
source=Declaration_+_Exhibits_20191003#page33.tif
source=Declaration_+_Exhibits_20191003#page34.tif
source=Declaration_+_Exhibits_20191003#page35.tif
source=Declaration_+_Exhibits_20191003#page36.tif
source=Declaration_+_Exhibits_20191003#page37.tif
source=Declaration_+_Exhibits_20191003#page38.tif
source=Declaration_+_Exhibits_20191003#page39.tif
source=Declaration_+_Exhibits_20191003#page40.tif
source=Declaration_+_Exhibits_20191003#page41.tif
source=Declaration_+_Exhibits_20191003#page42.tif
source=Declaration_+_Exhibits_20191003#page43.tif

source=Declaration+_Exhibits_20191003#page92.tif

source=Declaration+_Exhibits_20191003#page93.tif

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Application Nos.:	86730089 (WILMA DEERING) 86730085 (BLACK BARNEY) 86730074 (DR. HUER) 86730066 (KILLER KANE) 85512662 (BUCK ROGERS...) 77831393 (BUCK ROGERS) 77831213 (BUCK ROGERS) 77650082 (BUCK ROGERS)
APPLICANT:	BUCK ROGERS COMPANY

1. I, JOHN J. O'MALLEY, of full age, upon personal knowledge, do hereby declare as follows:

2. I am a shareholder in the law firm Volpe and Koenig, P.C. ("Volpe and Koenig"), which represents the Buck Rogers Company.

3. This Declaration is filed in response to the "Submission Regarding Disputed Trademark Application Ownership Pursuant to TMEP § 503.06(c)" filed on July 26, 2019 by the beneficiaries of the Dille Family Trust ("DFT"), Lorraine Dille Williams and Robert Nichols Flint Dille (collectively "the DFT Beneficiaries"), with respect to the above-identified applications.

4. For the reasons set forth in this document, the Buck Rogers Company disputes the validity of the claims of ownership of the above-identified applications by the DFT Beneficiaries.

The Dille Family Trust

5. The DFT was formed in 1979.

6. The DFT Beneficiaries were actively involved in selecting and appointing the current Trustee Louise Geer.

7. The DFT Beneficiaries appointed Louise Geer as Trustee of the Dille Family Trust on June 6, 2011.

8. The DFT Beneficiaries signed the documents appointing Louise Geer as Trustee. *See Exhibit A.*

9. The Trust Documents confer the DFT Trustee with broad ranging powers and privileges necessary to conduct business that are identical to that of an individual with respect to his or her own property, including without limitation incorporating legal business entities, selling or leasing property, and borrowing or lend money. The 1979 Trust document provides in pertinent part:

ARTICLE IV

TRUSTEE'S POWERS

Subject to the provisions and limitations set forth expressly herein, trustee shall have, in general, the power to do and perform any and all acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon trustee be exhausted by the use thereof, but each shall be continuing.

...

4.D. Management of Trust Businesses. To hold and operate at the risk of the trust fund and not at the risk of trustee, any business, partnership interest or capital stock of any corporation, including closely-held corporations, received or acquired by trustee, as long as trustee may deem advisable, the profits and losses to inure or be chargeable to the trust fund and not trustee; and in connection with such operation, to incorporate such business or operate it as a partnership, limited or general, or in any other form of organization which trustee deems appropriate;

4.E. Manage and Control. To manage, control, sell at public or private sale, convey, exchange, partition, divide, allot, subdivide, improve, repair; to grant options and to sell upon deferred payments; to pledge or encumber by mortgage or deed of trust or any other form of hypothecation; to otherwise dispose of the

whole or any part of the trust fund on such terms and for such property or cash or credit, or any combination thereof, as trustee may deem best; to lease for terms within or extending beyond the duration of the trust fund for any purposes, including leases of real property for up to ninety-nine (99) years, ...

4.F. Loans. To borrow for the trust fund from any person, corporation or other entity, including trustee or any related, affiliated or subsidiary corporation or business venture of trustee at such rates and upon such terms conditions as such trustees shall deem advisable, and to pledge as security therefor any of the assets of the trust fund for the benefit of which such loan is made to execute, acknowledge and deliver bonds, mortgages, and deeds of trust, extensions of agreements, participation agreements, assignments of mortgages or deed of trust or other documents incidental thereto; to lend money upon such terms and such conditions as trustee deems to be in the best interests of the trust fund and the beneficiaries thereof ...

...

4.T. General Powers. To perform any and all other acts necessary, proper or desirable for the benefit of the trust fund and its beneficiaries, and to effectuate the powers conferred upon the trustee hereunder.

See Exhibit B.

10. The DFT Trust Documents do not require a court order to appoint the Trustee.

11. The DFT Trust Documents do not provide a means for the beneficiaries to replace the trustee absent a court order.

12. There are no court orders removing Louise Geer as Trustee.

Litigation History

A. The USPTO and TTAB

13. On January 15, 2009, the Nowlan Family Trust ("NFT") filed an intent-to-use trademark application (Serial No. 77/650,082) at the United States Patent and Trademark Office ("USPTO") for the BUCK ROGERS mark.

14. The USPTO cited The DFT's U.S. Registration No. 714,184 and No. 1,555,871 to block NFT's registration of the application.

15. NFT petitioned to cancel DFT's registrations on the grounds that DFT abandoned U.S. Registration No. 714,184 and 1,555,871 and committed fraud in connection with the renewal of U.S. Registration No. 714,184.

16. DFT surrendered the registrations and the Trademark Trial and Appeal Board ("TTAB") ruled in NFT's favor, cancelling U.S. Registration No. 714,184 and No. 1,555,871.

17. DFT did not appeal the TTAB decision to cancel the registrations.

18. NFT's application was approved and published for opposition by the USPTO.

19. On July 12, 2011, DFT filed a Notice of Opposition against NFT's application claiming common law rights in the BUCK ROGERS trademark dating back to 1929.

20. After four years and the full opportunity for the parties to take discovery, present their evidence, and brief the case, on September 25, 2015, the TTAB issued an order dismissing DFT's opposition and finding that DFT "failed to demonstrate proprietary rights in the BUCK ROGERS designation prior to Applicant's filing date." *Dille Family Tr. v. Nowlan Family Tr.*, No. 91200643, 2015 TTAB LEXIS 379 at **23 (T.T.A.B. Sept. 25, 2015). *See* Exhibit C.

21. The opposition was overruled by the TTAB because the DFT could not "demonstrate its proprietary interest in the asserted mark." *Id.* at **23-24.

B. The Eastern District of Pennsylvania, Civil No. 15-6231

22. DFT appealed the TTAB's decision (Count III) in the opposition to the Eastern District of Pennsylvania and added the following claims:

a. Count I: federal unfair competition pursuant to 15 U.S.C. § 1125(a) (false designation of origin and false description and representation),

b. Count II: federal unfair competition pursuant to 15 U.S.C. § 1125(a) (confusion, mistake and/or deception),

c. Count IV: common law infringement, unfair competition, and interference,
d. Count V: a declaration that NFT never had a bona fide intent to use the Buck Rogers mark when it filed its application,

e. Count VI: a declaration that the DFT has priority and common law rights with respect to the Buck Rogers mark ,

f. Count VII: specific performance,

g. Count VIII: false advertising under 15 U.S.C. § 1125(a)(1)(B), and

h. Count IX: intentional interference with actual and prospective business relations.

23. NFT filed a motion to dismiss the complaint.

24. The Eastern District of PA granted NFT's motion dismissing Count I (Lanham Act false designation of origin/false representation); Count II (Lanham Act confusion, mistake, or deception); Count IV (common law trademark infringement and unfair competition); Count V (declaratory judgment of regarding bona fide intent); Count VI (declaratory judgment of priority and common law rights); Count VII (specific performance); and Count VIII (Lanham Act false advertising).

25. DFT filed an amended complaint claiming:

a. Count I: appeal of the final TTAB decision in the opposition,

b. Count II: specific performance,

c. Count III: federal unfair competition pursuant to 15 U.S.C. § 1125(a) and (c) (confusion, deception, false description, and dilution)

d. Count IV: common law infringement, unfair competition, and interference.

26. NFT filed a second motion to dismiss.

27. The Eastern District of PA dismissed Count III with respect to confusion, deception, and false description and dismissed Count IV.

28. NFT filed a motion for summary judgment, and on August 25, 2017, the court granted summary judgment as to Count I with respect to opposition proceeds under Section 43(c) of the Lanham Act and Count II, and Count III. The only issue that remained was DFT's Count I with respect to opposition proceeds under Section 2(d) of the Lanham Act.

29. Trial was scheduled for February 5, 2018.

30. On November 28, 2017, DFT filed a petition for bankruptcy and the appeal was automatically stayed due to DFT's petition for bankruptcy.

31. On October 2, 2018, the automatic stay was lifted in this Action effective October 6, 2018.

32. This Court then issued a Pretrial Scheduling Order setting a trial date of February 25, 2019.

33. This Action was then stayed again by this Court on December 14, 2018. (ECF No. 183).

34. At a conference before the Court on February 28, 2019, DFT and NFT advised the Court that they had reached a settlement and asked the court to retain jurisdiction over the settlement agreement. This Court advised the parties that the Court would not retain jurisdiction over the settlement agreement and instructed the parties to submit a standard dismissal order for approval by the Court.

35. That same day the Court dismissed the case pursuant to Local Rule 41.1(b).

36. On March 4, 2019, the Court signed the stipulated dismissal submitted by the parties. *See* Exhibit D.

37. On or about March 1, 2019, the above-identified trademark applications, with the exception of Application Serial No. 77650082, were assigned to Buck Rogers Company.

38. Application Serial No. 77650082 was filed by NFT and was never owned by DFT.

39. On May 23, 2019, beneficiaries of DFT, Lorraine Dille Williams and Robert Flint Dille, moved to set aside judgment.

40. On June 11, 2019, Lorraine Dille Williams and Robert Flint Dille filed a motion to intervene in the Eastern District of PA case.

41. On August 21, 2019 the Eastern District of PA denied Lorraine Dille Williams and Robert Flint Dille's motion to set aside judgment and motion to intervene. *See* Exhibit E.

C. The United States Bankruptcy Court for the Western District of Pennsylvania,

Bankr. No. 17-24771-JAD

42. On November 28, 2017, DFT filed a voluntary Chapter 11 bankruptcy in the Western District of PA.

43. As a result of the bankruptcy proceeding, all litigation was stayed.

44. On February 20, 2019, the United States Bankruptcy Court for the Western District of Pennsylvania dismissed the bankruptcy proceeding because the DFT "is ineligible to be a debtor in bankruptcy." The court stated, "this saga may continue albeit before a different court (or courts) because the Dille Family Trust is ineligible for bankruptcy relief." *In re Dille Family Tr.*, 598 B.R. 179, 203 (Bankr. W.D. Pa. 2019).

45. On August 26, 2019, the Chapter 11 trustee moved for an expedited motion to reopen bankruptcy for limited purpose pursuant to 11 U.S.C. § 350(b).

46. After oppositions were entered, on September 12, 2019, the court entered an order that the motion was withdrawn without prejudice.

D. Superior Court of California for the County of Los Angeles, No. 19STPB03164

47. On April 4, 2019, the Beneficiaries filed an action in the Superior Court of California for the County of Los Angeles (*In the matter of: The Dille Family Trust*, Case No.: 19STPB03164) seeking, among other things, to remove Louise Geer as Trustee and appoint the Movants as co-trustees. *See* Petition attached as "Exhibit F".

48. On July 31, 2019, the Superior Court of the State of California action was dismissed with prejudice for lack of jurisdiction and improper venue. The court issued its ruling in a minute order on July 11, 2019. The court stated in the minute order:

The Dille Family Trust was created in 1979, and amended in 1982. The trust document provides that the trust should be governed by California law. However, in 1989, thirty years ago, the co-trustees agreed to transfer the situs of the trust to Illinois. The Petitioners are beneficiaries of the trust. After the death of former co-trustees and the resignation of the remaining trustee Arthur Martin in 2011, the named corporate successor trustees declined to serve. The petitioner then sought out Respondent Greer (sic) and both of them asked her to serve as trustee. No one objected. Although they now complain they did not have their own lawyer, they did not request independent counsel, as Ms. Greer (sic) is an attorney.

Petitioners now assert her appointment as trustee was invalid. Nevertheless, since June 2011, Ms. Greer (sic) has been acting as trustee. For at least seven to eight years, the petitioners never objected to her appointment or claimed that it was unlawful. The petitioners could not cite any provision in the trust requiring court approval for her appointment. As noted in her declaration, Ms. Greer (sic) has lived in the state of Pennsylvania for 40 years. She accordingly conducted relevant trust business in Pennsylvania, whether it be her office, trust bank accounts, business records, etc. and filed tax returns in that state. She does not maintain any property or offices in California, although she has in her professional capacity as an entertainment attorney conducted business with various people in this state. The Trust has no assets or accounts located in California. None of the acts giving rise to the underlying Petition took place in California.

See Exhibit G (emphasis added).

E. Court of Common Pleas of Lawrence County, Pennsylvania, Orphans Court,

No. 2019-20254

49. On April 17, 2019, DFT filed a Petition for Citation to Show Cause in the Court of Common Pleas of Lawrence County, Pennsylvania, Orphans Court (*Geer v. Lorraine Dille Williams and Robert Nichols Flint Dille*, Case No.: 2019-20254) ("Lawrence County Action") seeking among other things, to show cause why Louise Geer is not the Trustee of the DFT.

50. Upon information and belief, the Lawrence County Action remains pending.

51. As noted above, there is no court order removing Louise Geer as Trustee of DFT and Louise Geer remains Trustee.

52. The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statement may jeopardize the validity of this document, declares that he is properly authorized to execute this document on behalf of the owner, and all statements made of his own knowledge are true and that all statements made on information and belief are believed to be true.

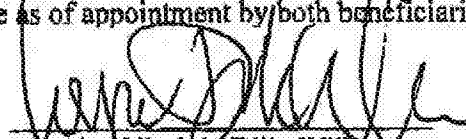
Date: October 3, 2019

s/John J. O'Malley
John J. O'Malley, Esq.
Volpe and Koenig, P.C.
30th South 17th Street, Suite 1800
Philadelphia, Pennsylvania 19103
Tel: (215) 568-6400
jomalley@vklaw.com
Attorneys for the Buck Rogers Company

EXHIBIT A

DILLE FAMILY TRUST: APPOINTMENT OF SUCCESSOR TRUSTEE

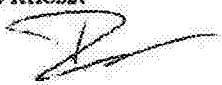
Under the trust instrument dated August 16, 1979 as amended January 5, 1982 executed by Robert C. Dille and Virginia N. Dille, Settlers, pursuant to paragraph 2C of Article II as set forth in the amendment to the Trust Agreement and now in effect; and Settlers having died in 1983 and 2010 respectively, and the designated successor Trustees: Arthur Martin, Dennis W Fox, and American Guaranty & Trust Company [now RBC Trust Company Limited] having resigned and declined to act; and beneficiaries thereby being empowered to appoint successor trustee; and the beneficiaries being: Lorraine Virginia Dille Williams and Robert Nichols Flint Dille pursuant to paragraph 6.L of trust instrument, the undersigned beneficiary hereby appoints Louise A. Geer successor trustee to be effective as of appointment by both beneficiaries.


Lorraine Virginia Dille Williams

Dated:

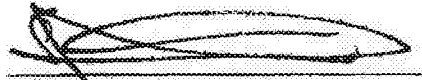
6/6/11

Witness:



DILLE FAMILY TRUST: APPOINTMENT OF SUCCESSOR TRUSTEE

Under the trust instrument dated August 16, 1979 as amended January 5, 1982 executed by Robert C. Dille and Virginia N. Dille, Settlers, pursuant to paragraph 2C of Article II as set forth in the amendment to the Trust Agreement and now in effect; and Settlers having died in 1983 and 2010 respectively, and the designated successor Trustees: Arthur Martin, Dennis W Fox, and American Guaranty & Trust Company [now RBC Trust Company Limited] having resigned and declined to act ; and beneficiaries thereby being empowered to appoint successor trustee; and the beneficiaries being: Lorraine Virginia Dille Williams and Robert Nichols Flint Dille pursuant to paragraph 6.L of trust instrument, the undersigned beneficiary hereby appoints Louise A. Geer successor trustee to be effective as of appointment by both beneficiaries.



Robert Nichols Flint Dille

Dated: June 6, 2011

Witness:

JH Dille

Teresa Dille

EXHIBIT B

COPY

THE DILLE FAMILY TRUST

(PHOTOCOPY)

Date signed:

August 16, 1979

* * *

To be filed for availability and frequent review.

Original copy is located at:

* * *

DENNIS W. FOX
Attorney-at-Law

2460 Garden Rd
Monterey, California
(408) 546-9898

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
I	CONVEYANCE	1
II	DECLARATIONS	1
	2.A. Name	1
	2.B. Statement of Intent and Family	1
	2.C. Successor Trustees	2
	2.D. Trust Fund	2
	2.E. Definitions	3
	2.F. Trust Situs	4
	2.G. Restrictions	4
	2.H. Perpetuity Provision	4
	2.I. No-Contest Provision	4
	2.J. Presumptions	5
	2.K. Special Distribution to Minors	5
XIII	TRUSTEESHIP	6
	3.A. Successor Trustees	6
	3.B. Corporate Trustee	6
	3.C. Vacancy in Trusteeship	6
	3.D. Beneficiary	6
	3.E. Disputes	6
	3.F. Bond	7
	3.G. Liability	7
	3.H. Compensation	7
	3.I. Resignation	7
	3.J. Reports	7
	3.K. Payments to Beneficiaries	7
	3.L. Dividends	8
	3.M. Interest	8
	3.N. Life Insurance	9
	3.O. Division of Trust Fund	9
	3.P. Release of Powers	9
IV	TRUSTEE'S POWERS	9
	4.A. Receive Assets	10
	4.B. Retention of Trust Property	10
	4.C. Invest and Reinvest	10
	4.D. Management of Trust Businesses	10
	4.E. Manage and Control	11
	4.F. Loans	11
	4.G. Purchase	11
	4.H. Deal with Fiduciaries	11
	4.I. Securities	12
	4.J. Contracts	12
	4.K. Agreements	13

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
	4.L. Indebtedness	13
	4.M. Nominee Name	13
	4.N. Professional Assistance	13
	4.O. Divisions and Distributions	13
	4.P. Tax Consequences	14
	4.Q. Bonds: Premium Amortization	14
	4.R. Bank Accounts	14
	4.S. Principal and Income	14
	4.T. General Powers	15
V	SETTLOR'S RETAINED POWERS	15
	5.A. Revocation	15
	5.B. Amendment	15
	5.C. Revocation and Amendment by Surviving Settlor	15
	5.D. Powers Personal to Settlers	16
	5.E. Life Insurance	16
	5.F. Tangible Personal Property	17
	5.G. Real Property	17
	5.H. Special Authority to Husband and/or Wife as Co-Trustees	18
VI	DISPOSITION OF TRUST FUND	18
	6.A. Trustee's Basic Duties	18
	6.B. Disposition During Settlers' Lifetime	18
	6.C. Disposition During Settlers' Incapacity	18
	6.D. Division of Trust Fund Upon Death of First Settlor	19
	6.E. Deferral of Division or Distribution	20
	6.F. Authorized Actions at Settlers' Deaths	20
	6.G. Deceased Spouse's Expenses	21
	6.H. Payments of Income to Surviving Spouse	22
	6.I. Payments of Principal to Surviving Spouse	22
	6.J. Special Withdrawal Rights of Surviving Spouse	22
	6.K. Power of Appointment in Surviving Spouse	23
	6.L. Distribution at Surviving Spouse's Death	23

THE DILLE FAMILY TRUST

THIS TRUST AGREEMENT is made, executed and entered into by ROBERT C. DILLE, also known as ROBERT CRABTREE DILLE, and VIRGINIA N. DILLE, also known as VIRGINIA NICHOLS DILLE, VIRGINIA LORRAINE DILLE and VIRGINIA LORRAINE NICHOLS, of Carmel, Monterey County, California, as settlors, and ROBERT C. DILLE and VIRGINIA N. DILLE, as trustees (hereinafter referred to in this trust agreement as "trustee").

ARTICLE I

CONVEYANCE

Settlors desire to establish a trust of the property described in Schedule A attached hereto and made a part hereof. All such property and any other as hereinafter added shall be known as the "trust fund." Settlers also intend to make the trustee primary and/or contingent beneficiary and/or owner of the rights of certain policies of life insurance on their respective lives.

Trustee acknowledges receipt of the trust fund and shall hold the same in trust, nevertheless, under the following terms, conditions and provisions:

ARTICLE II

DECLARATIONS

2.A. Name. This trust shall be known as THE DILLE FAMILY TRUST.

2.B. Intent and Family. Settlers, ROBERT C. DILLE and VIRGINIA N. DILLE, sometimes hereinafter referred to as husband and wife, are married. Settlers have two (2) children now living. Their names and dates of birth are:

LORRAINE VIRGINIA DILLE, born January 19, 1949
ROBERT NICHOLS FLINT DILLE, born November 3, 1955

SETTLORS' INITIALS

Trustees may rely upon such dates for all distributions hereunder. By this trust agreement, settlors intend to provide for themselves, their children and their issue.

2.C. Successor Trustees. If ROBERT C. DILLE or VIRGINIA N. DILLE fails to qualify or ceases to act for any reason, during his or her lifetime, the other of said trustees shall act as sole trustee of the trust, unless there has already been named a co-trustee or successor trustee in accordance with the discretionary terms of Paragraph 3.A. After the death of either settlor, the surviving settlor shall become sole trustee of the trust, unless there has already been named a co-trustee or successor trustee in accordance with the discretionary terms of Paragraph 3.A. In the event that both settlors fail to qualify or cease to act for any reason, they shall be succeeded by settlors' children, LORRAINE and FLINT, unless there has already been named a co-trustee or successor trustee in accordance with the discretionary terms of Paragraph 3.A. In the event that settlors' children, LORRAINE and FLINT fails to qualify or ceases to act for any reason, husband's brother, JOHN FLINT DILLE, Jr. shall immediately become trustee, unless there has already been named a co-trustee or successor trustee in accordance with the discretionary terms of Paragraph 3.A. In the event a co-trustee fails to qualify or ceases to act, the remaining trustee or trustees may act alone.

During such time that co-trustees are then acting, said co-trustees may on each one's separate direction alone negotiate securities and bank or savings accounts, and deal with the entire trust fund and its assets, including also but not limited to any real property, without all trustees' signatures being required. Any third party dealing with the trust may rely upon this singular authority without any further evidence.

2.D. Trust Fund.

(1) All property now or hereafter subject to the terms hereof and any reference to a trust shall apply to all trusts created under this instrument unless otherwise provided herein. It is the intention of settlors that all community property transferred to these trusts and the proceeds thereof (called the "community estate") shall continue to retain its character as community property during their joint lifetimes, subject, however, to all the terms and conditions of this trust agreement. Similarly, it is the intention of settlors that all ~~community property and separate property of either spouse~~ and the proceeds thereof (called the "separate estate") shall retain its character during their joint lifetimes, subject also to all the terms and conditions of this trust agreement. Further, it is the intention of settlors that trustee shall have no more extensive power over any community property transferred to the trust estate than either settlor would have had under California Civil Code sections 5125 and 5127 or other California code sections then in effect which govern the management of community

SETTLORS' INITIALS

property had this trust agreement not been created, and this trust agreement shall be interpreted to achieve this intention. This limitation shall terminate on the death of either settlor.

(2) Settlers may add to the principal of the trust by dead, will, or otherwise. With the written approval of the trustee, other persons may add to the principal of the trust fund. Unless otherwise specifically provided by such other persons adding to the principal of the trust fund, the trustee shall allocate any such addition to each separate trust created by this trust agreement ratably on the basis of the market value of each separate trust at the date of any such additions.

2.E. Definitions. In any matter of interpretation of this trust agreement, the following definitions shall apply:

(1) Child or Children. Any reference to "child" or "children" shall include any other children hereafter born to or adopted by settlers;

(2) Child in Being. A child in gestation which is later born alive and survives for thirty (30) days shall be considered as a child in being throughout the period of gestation;

(3) Corporate Trustee. Any reference to a corporate trustee shall include its successor, whether by merger, consolidation, change of name or otherwise;

(4) Headings. Article headings in this trust agreement are inserted for convenience only, and are not to be considered in the construction of the provisions thereof;

(5) Incapacity. In the case of a question or dispute, incapacitation shall be evidenced by written certification of three (3) physicians, consisting of one (1) neurologist and two (2) psychiatrists, all of whom are certified by the American Board of Neurology and Psychiatry;

(6) Issue. The term "issue" shall refer to lineal descendants of all degrees and shall include adopted persons;

(7) Majority. The term "majority" shall mean more than one-half (1/2), and, in the event of a deadlock, shall be determined in accordance with the provisions of Article 2.5 of the California Probate Code, Section 1138.1 to 1138.13, inclusive, or ~~California Probate Code~~ California Probate Code sections relating to inter vivos trusts;

(8) Principal and Income. The determination by trustee in all matters with respect to what shall constitute principal of the trust, gross income therefrom and net income distributable under the terms of the trust shall be governed by the provisions of the Principal and Income Law of the State of California, as it may from time to time exist, except as to any of

such matters as may otherwise be provided for in this instrument. In the event and to the extent that any of such matters relating to what constitutes principal or income of the trust and in the allocation of receipts and disbursements between these accounts is not provided for either in this trust agreement or in the Principal and Income Law, trustee has full power and authority to determine such matters;

(9) Pronouns and Gender. In this trust agreement, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates; and,

(10) Trustee. Any reference to "trustee" shall be deemed to refer to whichever individual, individuals or corporation (as the case may be) as shall then be acting as trustee.

2.F. Trust Situs. This trust agreement is a California contract and creates a California trust, and all of the terms and provisions hereof shall be interpreted according to the laws of the State of California, except that a majority of the beneficiaries may transfer the trust situs to a more convenient jurisdiction.

2.G. Restrictions. The interest of any beneficiary (whether entitled to current income or possessing only a future interest) in either the income or principal of the trust fund or any part of it shall not be alienated or in any other manner assigned or transferred by such beneficiary; and such interest shall be exempt from execution, attachment, distress for rent, and other legal or equitable process which may be instituted by or on behalf of any creditor or assignee of such beneficiary; nor shall any part of such interest be liable for the debts or obligations (including alimony) of any such beneficiary.

2.H. Perpetuity Provision. Anything herein contained to the contrary notwithstanding, each trust created by this trust agreement, unless sooner terminated in the manner hereinafter provided, shall end immediately prior to the expiration of twenty-one years from and after the death of the last survivor of settlors and settlors' now living issue; and thereupon trustee shall pay over the principal of each such trust, free from this trust, unto the person then entitled to receive the net income from each such trust.

2.I. No-Contest Provision. In the event any beneficiary under this trust shall, singly or in conjunction with any other person or persons, contest in any court the validity of this trust agreement or of a deceased husband's or wife's last Will or shall seek to obtain an adjudication in any proceeding in any court that this trust agreement or any of its provisions or that such Will or any of its provisions is void, or seek otherwise to void, nullify or set aside this trust agreement or any of its provisions, then

the right of that person to take any interest given him or her by this trust agreement shall be determined as it would have been determined had the person predeceased the execution of this trust agreement without surviving issue.

The trustee is hereby authorized to defend, at the expense of the trust fund, any contest or other attack of any nature on this trust agreement or any of its provisions.

2.J. Presumptions. Any beneficiary who shall not be living thirty (30) days after husband's or wife's (as the case may be) death, shall be deemed not to have survived him or her; except that in the case of husband and wife, if the order of their deaths cannot be established by proof, the wife shall be deemed to be the Surviving Spouse (as hereinafter defined in Paragraph 6.D) and the wife shall also be deemed to be the Surviving Spouse if the wife survives in fact for any period.

2.K. Special Distribution to Minors. If any of the income and/or principal of any trust hereunder ever vests outright under the provisions of this trust agreement in persons not yet twenty-one (21) or persons who, in the opinion of trustee, are under incapacity or unable to administer distributions properly, then trustee, in its discretion, in any jurisdiction, without giving or requiring bond, without intervention of a guardian, conservator or other representative, and without supervision of any court, shall hold or distribute such property (subsequently referred to in this Paragraph 2.K. as the "protected property") in accordance with the following provisions:

(1) Trustee may hold any protected property in a separate trust for such beneficiary, exercising as trustee of such trust all the administrative powers conferred in this trust agreement. Trustee may accumulate or distribute to or for such beneficiary in accordance with subparagraph (2), as hereinbelow described, such amount or amounts of income and/or principal of the trust as it determines from time to time during the term of the trust. The trust shall terminate and vest absolutely when the beneficiary attains age twenty-one (21), dies, overcomes the disability, or when the trust assets are exhausted by discretionary distributions, or as otherwise directed by Paragraph 2.K., as hereinabove mentioned, whichever shall first occur. At such termination, trustee shall distribute the protected property then on hand in trust to the beneficiary or to the beneficiary's estate if the trust terminates at the beneficiary's death.

(2) Trustee may distribute any protected property to or for the benefit of such beneficiary: (a) directly to the beneficiary; (b) on behalf of the beneficiary for the beneficiary's exclusive benefit; (c) to any account in a bank or savings institution either in the name of such beneficiary or in a form reserving title, management and custody of such account to a suitable person for the use of such beneficiary; (d) in any form of an annuity; (e) in all ways provided by laws dealing with gifts or distributions to or for minors or persons under incapacity;

and, (f) to any suitable person with whom the beneficiary resides or has the care or control of the beneficiary, without obligation to see to the further application of such distribution, and the receipt for distributions by any such persons shall fully discharge trustee.

ARTICLE III

TRUSTEESHIP

3.A. Successor Trustees. Husband and wife may, during their joint lifetimes, appoint individuals or corporations as co-trustees or successor trustees, by written instrument delivered to the other trustee(s), if any are then acting; and, upon the death of the first of them, the survivor may appoint, by the same method, individuals or corporations as co-trustees or successor trustees except in so far as a co-trustee or trustee was designated during their joint lifetime to administer the Residual Trust (as hereinafter defined in Paragraph 6.D.). If this power is executed by both a Will and other instrument, the document which bears the latest date should prevail. Any individual trustee may also remove a corporate co-trustee and designate a new one by a written instrument, and may, by the same method, revoke such designation and make a new one.

3.B. Corporate Trustee. Any corporate trustee appointed under any provisions of this trust agreement shall be a bank, corporation or other financial institution duly organized under the laws of any state or of the United States, authorized by law to administer trusts, maintaining a full-time trust department, and having a combined capital and surplus of at least ten million dollars (\$10,000,000.00).

3.C. Vacancy in Trusteeship. If a corporate trustee for any reason fails to qualify or ceases to act, or there is no trustee acting hereunder, the trustee then acting, if any, and if not, then a majority of the beneficiaries shall appoint a successor corporate trustee by an instrument in writing, which appointment must be effective upon the date the last trustee fails to qualify or ceases to act.

3.D. Beneficiary. For purposes of ARTICLE III of this trust agreement, the term "beneficiary" or "beneficiaries" shall mean any beneficiary then eligible to receive current income. If any beneficiary is a minor or incapacitated, irrespective of whether legally so adjudicated, then the guardian, conservator or person with whom said beneficiary resides shall act for the beneficiary for all purposes in the ARTICLE III.

3.E. Disputes. If an individual trustee and a corporate trustee are acting, whenever there shall be a dispute, deadlock or difference of opinion between them on a question of joint discretion, the determination of the individual trustee shall be

binding upon the corporate trustee, but the corporate trustee shall bear no liability or accountability for any act or transaction entered into as a result of the enforcement of the individual trustee's privilege if it shall have dissented in writing in advance of such act or transaction. During husband's and/or wife's lifetime, their decisions shall absolutely control on all questions of joint discretion.

3.F. Bond. No bond shall be required of any person named in this trust agreement as trustee. Subsequently named co-trustees or successor trustees may be required to be bonded, in accordance with the terms of appointment.

3.G. Liability. No successor trustee shall be under any obligation to examine the accounts of any prior trustee, and a successor trustee shall be exonerated from all liability arising from any prior trustee's acts or negligence.

3.H. Compensation. Trustee shall be entitled to receive, out of the income and principal of the trust fund, compensation for its services hereunder to be determined from time to time by the application of the current rates then charged by trustee for trusts of a similar size and character, and, in the event that trustee shall be called upon to render any extraordinary services, it shall be entitled to additional compensation therefor. Trustee may impose any trustee fees or other expenses of the trust against the principal or income of the trust fund without any duty to seek reimbursement or contribution from the interest not charged.

3.I. Resignation. Any trustee may resign at any time by giving written notice to settlors, if living, or the survivor of them, and thereafter to the other trustees, if any, and, if not, to all the beneficiaries. Any such notice shall become effective as agreed by settlors or the majority of the beneficiaries, but no later than thirty (30) days after such written notice.

3.J. Reports. The trustee shall render reports at least annually to settlors and to each beneficiary, except as such reporting shall be waived by settlors. The records of the trustee shall be open at all reasonable times to such inspections. The trustee shall not be required to make any reports or accountings to the courts.

3.K. Payments to Beneficiaries.

(1) Trustee shall pay the net income of any trust hereunder, to the beneficiary to whom such income is directed to be paid, at such times as shall be convenient to such beneficiary and agreed to by the trustee;

(2) Any income and/or principal of any trust hereunder to which any beneficiary may be entitled may, without regard to any order or assignment purporting to transfer the same to any other person, be paid or distributed by trustee, in its sole

Handwritten initials and date: JFB 9/17/11

discretion, into the hands of such beneficiary, or to the guardian of the person of such beneficiary, or to the person with whom such beneficiary shall reside, or be mailed to such beneficiary's last known address, or deposited to the account of such beneficiary in a bank or trust company of good standing, or be applied for the benefit of such beneficiary and his or her dependents directly by trustee; and the receipt for any payment or distribution or evidence of the application of any income or principal made in conformity with the foregoing shall discharge trustee from any further liability therefor;

(3) Upon the happening of any event terminating the period which the income of any trust hereunder is directed to be paid to a beneficiary, then, any statute or rule of law to the contrary notwithstanding, any accrued or other income not actually collected and available for distribution to such beneficiary prior to the happening of such event shall, when collected, be treated as though it had, in fact, accrued after the happening of such event;

(4) Unless trustee shall have received actual written notice of the occurrence of an event affecting the beneficial interests of this trust agreement, trustee shall not be liable to any beneficiary of this trust agreement for distribution made as though the event had not occurred; and,

(5) If at any time or times during the continuance of any trust hereunder, trustee, in its sole discretion, shall consider that the funds payable hereunder unto or for the benefit of any beneficiary of such trust, together with the funds available to such beneficiary from other sources, are insufficient to provide properly for the essential needs -- such as food, clothing, education, shelter and illness expenses -- of such beneficiary and his or her dependents, trustee is authorized and empowered to pay over or apply so much of the principal of any part or the whole of any trust hereunder from which such beneficiary may then be receiving payments or the benefit thereof, in such manner and to such extent as trustee, in its sole discretion, shall deem to be necessary to meet such essential needs of such beneficiary and his or her dependents.

3.L. Dividends. Trustee shall collect dividends declared on shares of stock delivered to it if such delivery shall occur prior to the record date for such dividends (regardless of whether trustee shall be the holder of record on such date) and trustee shall treat all such dividends, upon receipt, as income or

3.M. Interest. With respect to interest that shall have accrued but shall not have been paid on any interest-bearing property at the time of its delivery to trustee, trustee shall collect and treat such interest, upon receipt, as income or principal as though such interest had accrued after such delivery.

3.N. Life Insurance. If this trust agreement includes any policies of insurance, then upon receipt of proof of death of the insured, trustee shall use its best efforts to collect any and all sums payable by reason of such death under the policies of life insurance then held hereunder, and for that purpose trustee is expressly empowered to execute and deliver valid receipts and complete discharges to the insurance company or companies issuing said policies, to institute any suit or proceedings, and to do any and all other acts necessary for the purpose of collecting such sums; provided, however, that trustee shall not be under any duty to institute any suit or proceedings unless its expenses, including counsel fees and costs, shall be available in the trust fund or shall have been advanced or guaranteed in an amount and in a manner reasonably satisfactory to it.

3.O. Division of Trust Fund. There need be no physical segregation or division of the various trusts created hereunder except as segregation or division may be required by the termination of any of the trusts, but the trustee shall keep separate accounts for the different undivided interests.

3.P. Release of Powers. Each trustee shall have the power to release or to restrict the scope of any power that such trustee may hold in connection with any trust created under this trust agreement, whether said power is expressly granted in this trust agreement or implied by law. The trustee shall exercise this release in a written instrument specifying the powers to be released or restricted and the nature of any such restriction. Any released power shall pass to and be exercised by the other then-acting trustees.

ARTICLE IV

TRUSTEE'S POWERS

Subject to the provisions and limitations set forth expressly herein, trustee shall have, in general, the power to do and perform any and all acts and things in relation to the trust fund in the same manner and to the same extent as an individual might or could do with respect to his or her own property. No enumeration of specific powers made herein shall be construed as a limitation upon the foregoing general powers, nor shall any of the powers conferred herein upon trustee be exhausted by the use thereof, but each shall be continuing.

Trustee shall have all the powers set forth in Subparagraphs (1) through (17) inclusive of Section 1120.2 of the California Probate Code, as of the date of this trust agreement; in addition, trustee is specifically authorized and empowered, in its sole discretion:

4.A. Receive Assets. To receive, take possession of, sue for, recover and preserve the assets of the trust fund, both real and personal, coming to its attention or knowledge, and the rents, issues and profits arising from such assets;

4.B. Retention of Trust Property. To retain, without liability for loss or depreciation resulting from such retention, any assets received by trustee or any property that may from time to time be added to the trust fund or any trust created hereunder; or any property in which the funds of any trust may from time to time be invested, for such time as trustee shall deem best, even though such property may not be of the character prescribed by law for the investment of trust funds, or even though to retain such property might violate sound diversification principles, or even though such property may represent a large percentage of the total property of the trust fund. However, the aggregate property allocated to each trust created by this trust agreement shall bear a reasonable rate of return;

4.C. Invest and Reinvest. To invest, reinvest, change investments and keep the trust fund invested in any kind of property, real, personal, or mixed, including by way of illustration but not limitation, oil and gas royalties and interests; common and preferred stocks of any corporation, including puts, calls, and options, whether for cash, credit, or margins, whether closely or widely held, whether selling or buying including stock or other securities of or any interest in any corporation or other business venture or any related affiliated or subsidiary corporation or business venture which is acting as trustee hereunder; voting trust certificates, bonds, notes, debentures, mortgages, shares, or interests in investment trusts, mutual funds or common trust funds, including such funds administered by the trustee; market or index funds; interests in partnerships, whether limited or general and as a limited or general partner; and joint stock companies and associations, without regard to the proportions that any such investment or investments of a similar character may bear to the total trust fund or whether or not such investments are in new issues or are in new or foreign enterprises and without being limited to the classes of investments which the trustee is or may be authorized by statute or rules or decisions of court to invest trust funds; intending hereby to authorize trustee to act in such manner as trustee shall believe to be in the best interests of the trust fund and the beneficiaries thereof;

4.D. Management of Trust Businesses. To hold and operate at the risk of the trust fund and not at the risk of trustee, any business, partnership interest or capital stock of any corporation, including closely-held corporations, received or acquired by trustee, as long as trustee may deem advisable, the profits and losses to inure or be chargeable to the trust fund and not trustee; and in connection with such operation, to incorporate

such business or operate it as a partnership, limited or general, or in any other form of organization which trustee deems appropriate;

4.E. Manage and Control. To manage, control, sell at public or private sale, convey, exchange, partition, divide, allot, subdivide, improve, repair; to grant options and to sell upon deferred payments; to pledge or encumber by mortgage or deed of trust or any other form of hypothecation; to otherwise dispose of the whole or any part of the trust fund on such terms and for such property or cash or credit, or any combination thereof, as trustee may deem best; to lease for terms within or extending beyond the duration of the trust fund for any purposes, including leases of real property for up to ninety-nine (99) years, for the purpose of exploration for and development of and removal of gas, oil, minerals and other substances; to enter into community leases; to create restrictions, easements, servitudes; to compromise, arbitrate, or otherwise adjust claims in favor of or against the trust fund; to institute, compromise and defend actions and proceedings with respect to the trust fund; and to secure such insurance, at the expense of the trust fund, as trustee may deem advisable;

4.F. Loans. To borrow for the trust fund from any person, corporation or other entity, including trustee or any related, affiliated or subsidiary corporation or business venture of trustee at such rates and upon such terms conditions as such trustees shall deem advisable, and to pledge as security therefor any of the assets of the trust fund for the benefit of which such loan is made; to execute, acknowledge and deliver bonds, mortgages, and deeds of trust, extensions of agreements, participation agreements, assignments of mortgages or deed of trust or other documents incidental thereto; to lend money upon such terms and such conditions as trustee deems to be in the best interests of the trust fund and the beneficiaries thereof, including the lending of money from one trust to another trust created hereunder, and to borrow on behalf of one trust from any other trust created hereunder, and further including the right to lend money to trustee, to any related, affiliated or subsidiary corporation or business venture of trustee, or to husband's and/or wife's probate estates but in such event such loans shall be adequately secured and shall bear the then prevailing rate of interest for loans to such persons or entities for the purposes contemplated;

4.G. Purchase. To purchase property at its fair market value as determined by trustee, in trustee's discretion, from husband's and/or wife's probate estate;

4.H. Deal with Fiduciaries. To buy from, sell to, and generally deal with trustee individually and as a fiduciary, or with partnerships, corporations, and financial or business organizations in which trustee may have an interest;

4.I. Securities. With respect to any corporation or partnership, the stocks, bonds or other securities of which, or interests in which may form a part of the trust fund:

(1) To vote in person or in proxy;

(2) To consent to the merger, consolidation, reorganization or dissolution of any of such corporations, or to the termination of any of such partnerships, or to the modification or amendment of any partnership agreement or corporate organization document;

(3) To consent to the leasing, mortgaging or sale of any property of such corporation or partnership;

(4) To surrender, exchange or substitute stocks, bonds, or other securities as an incident to the merger, consolidation, recapitalization or dissolution of any of such corporations;

(5) To pay all assessments, subscriptions and other sums of money which trustee may deem wise and expedient for the protection and maintenance of the proportionate interest of the trust fund in said corporations or partnerships;

(6) To enter into agreements making the trust fund liable for a pro rata share of the liabilities of any corporation which has been dissolved and in which stock is held by the trust fund, when in the opinion of trustee such action is necessary to the plan of liquidation of any such corporation;

(7) To exercise any option or privilege which may be conferred upon the holders of such stocks, bonds, or other securities, either for the exchange or conversion of the same into other securities or for the purchase of additional securities, and to make any and all payments which may be required in connection therewith;

(8) To join in the creation, modification, cancellation of any voting trust, or any restrictive purchase or retirement agreement relating to any partnership interest or corporate stocks; and,

(9) To take any other action with respect to such corporation or partnership which trustee, in trustee's discretion, deems necessary and proper to protect and further the interests of the trust fund and the beneficiaries thereof, and in so doing to exercise any and all powers which may otherwise be granted to the legal owner of any such corporate stock or partnership interest;

4.J. Contracts. To enter into contracts which are reasonably incident to the administration of the trust:

4.K. Agreements. To carry out the terms of any valid agreements which husband and/or wife may have entered into during husband's and/or wife's lifetime regarding property owned by the trust;

4.L. Indebtedness. With respect to any indebtedness owed to the trust, secured or unsecured:

(1) To continue the same upon and after maturity, with or without renewal or extension, upon such terms as trustee deems advisable; and,

(2) To foreclose any security for such indebtedness, to purchase any property securing such indebtedness and to acquire any property by conveyance from the debtor in lieu of foreclosure;

4.M. Nominee Name. To hold any or all of the property comprising the trust fund, including real property, stocks, bonds, or other securities or interests therein, in trustee's or a nominee's name and to take and keep any or all of such stocks, bonds or other securities in unregistered form and retain them or any of them in such condition that ownership shall pass by delivery;

4.N. Professional Assistance. To employ and compensate agents, managers, investment counselors, brokers, attorneys, accountants, and other assistants deemed by trustee to be reasonably necessary for the administration of the trust fund, and trustee shall not be liable for any losses occasioned by the good faith employment of such agents, managers, investment counselors, brokers, attorneys, accountants and other assistants, nor shall trustee be liable for any losses occasioned by any actions taken by trustee in good faith reliance upon any advice or recommendation thereof; to pay all costs, taxes, and charges in connection with the administration of the trust fund; and to be reimbursed for all reasonable expenses, including attorneys' fees, incurred in the management and protection of the trust fund and to pay his agents, managers, investment counselors, brokers, attorneys, accountants and other assistants a reasonable fee prior to court approval thereof. Any such payment by trustee of such fees shall be out of principal or income, as trustee may elect, or partially out of each. The discretion of trustee to pay these expenses from income or principal, or partially from each, may be exercised not only in the interests of the trust fund but for the benefit of any beneficiary thereof; subject, however, to trustee's fiduciary obligation to treat income beneficiaries and

4.O. Divisions and Distributions. In any case in which trustee is required, pursuant to the provisions of any trust created herein, to divide any trust property into parts or shares for the purpose of distribution, or otherwise, to make the division and distribution (pro rata or otherwise) in kind, including undivided interests in any property, or partly in kind

and partly in money, and for this purpose to make such sales of trust property as trustee may deem necessary, and on such terms and conditions as trustee shall deem fit, and to determine the relative value of the securities or other properties so allotted or distributed. Trustee's determination of values and of the property for such distribution shall be conclusive. In making distributions pursuant to this paragraph, trustee should consider the tax bases of the various assets that are being distributed, so that the aggregate tax basis of assets distributed to the various distributees is as equal as possible. The decision of trustee in distributing assets in reliance on this paragraph shall be binding, and shall not be subject to challenge by any beneficiary hereunder;

4.P. Tax Consequences. To prepare and file returns and arrange for payment with respect to all local, state, federal and foreign taxes incident to this agreement; to take any action and to make any election, in trustee's discretion, to minimize the tax liabilities of this trust agreement and its beneficiaries, and trustee shall allocate the benefits among the various beneficiaries, and trustee shall make adjustments in the rights of any beneficiaries, or between the income and principal accounts, to compensate for the consequences of any tax election or any investment or administrative decision that trustee believes has had the effect of directly or indirectly preferring one beneficiary or group of beneficiaries over others;

4.Q. Bonds; Premium Amortization. To purchase any government bonds and to pay such premiums in connection therewith as trustee deems advisable; provided, however, that any such premium shall be repaid to principal out of the interest on the bond and, to the extent necessary, out of the proceeds from the sale or other distribution of such bond;

4.R. Bank Accounts. To open and maintain bank accounts in the name of trustee with any bank, trust company or savings and loan association authorized and doing business in any State of the United States of America. If more than one trustee shall be acting, the trustees may designate one or more of them to conduct banking activities and to make deposits, withdrawals and endorsements upon giving written notice of such designation to the bank, trust company, or savings and loan association in question; and such bank, trust company or savings and loan association shall be protected in relying upon such designation;

4.S. Principal and Income. Except as otherwise provided herein, trustee shall not be required to establish any reserve for depreciation or to make any charge for depreciation against all or any portion of the income of the trust fund, including any income realized through use of any portion of the trust fund principal in the conduct of a business by the trust fund; but trustee shall have the power, exercisable in trustee's discretion, to determine whether to establish such a reserve and, if so, to fund the same by appropriate charges against the income of the trust fund, such

reserve and charges to be established on such assumptions and in such amounts as trustee, in the trustee's discretion, shall determine. In exercising this discretion conferred on trustee, trustee is requested to take into consideration the fact that settlors' intent is to benefit primarily the income beneficiaries of the trust fund; and,

4.F. General Powers. To do any and all other acts necessary, proper or desirable for the benefit of the trust fund and its beneficiaries, and to effectuate the powers conferred upon the trustee hereunder.

ARTICLE V

SETTLORS' RETAINED POWERS

5.A. Revocation. During the joint lifetimes of settlors, this trust agreement may be revoked in whole or in part with respect to the community estate by an instrument in writing signed by either settlor and delivered to trustee and the other settlor, and with respect to separate property by an instrument in writing signed by the settlor who contributed that property to the trust, delivered to trustee. In the event of such revocation, the community estate or the revoked portion shall revert to both settlors as their community property, and the separate estate shall revert to the settlor respectively creating it and shall constitute his or her separate or quasi-community property as if this trust agreement had not been created. If this trust agreement is revoked with respect to all or a major portion of the assets subject to the agreement, trustee shall be entitled to retain sufficient assets to reasonably secure payment of the liabilities lawfully incurred by trustee in the administration of the trust, including trustee's fees that have been earned, unless settlors shall indemnify trustee against loss or expense.

5.B. Amendment. Settlers may at any time during their joint lifetimes amend any of the terms of this trust agreement by an instrument in writing signed by both settlors and delivered to trustee. No amendment shall substantially increase the duties or liabilities of trustee or change trustee's compensation without trustee's consent, nor shall trustee be obligated to act under such an amendment unless trustee accepts it. If a trustee is removed, settlor shall pay to trustee any sums due and shall indemnify trustee against liability lawfully incurred by trustee in the administration of the trusts.

5.C. Revocation and Amendment by Surviving Settlor. On the death of the first settlor, the surviving settlor shall have the power to amend, revoke, or terminate the "Marital Trust" (as hereinafter defined in Paragraph 6.D.), but the "Residual Trust" (as hereinafter defined in Paragraph 6.D.) may not be amended, revoked, or terminated.

On revocation or termination of the Marital Trust, all of its assets shall be delivered to the surviving settlor. Revocation and amendment shall be made in the manner as herein above provided in Paragraphs 5.A. and 5.B.

On the death of the surviving settlor, neither trust may be amended, revoked, or terminated.

5.D. Powers Personal to Settlers. The powers of settlors to revoke or amend this trust agreement are personal to settlors and shall not be exercisable in settlors' behalf by any guardian, conservator, or other person, except that revocation or amendment may be authorized, after notice to trustee, by the court that appointed the guardian or conservator.

5.E. Life Insurance.

(1) All rights, benefits, privileges, and options available to settlors during settlors' lifetimes as the owners of or the insured under any and all insurance policies, if any, within the operation of this trust agreement shall be retained by and for the sole benefit of settlors, regardless of the terms of this agreement and of the fact that trustee is named beneficiary in such policies, and shall not be subject to the trust.

(2) During the lifetime of husband or wife, as the case may be, the duty and responsibility concerning the payment of premiums and other charges, if any, within the operation of the trust shall rest solely upon husband and/or wife unless this responsibility has been expressly delegated to and accepted by trustee, or unless subsequent provisions of this agreement specifically provide to the contrary.

(3) It is the husband's and/or wife's intention to transfer the rights to the trust and to make the trust the beneficiary of certain policies of life insurance insuring the life of husband and/or his wife and owned by the other spouse. Any such policies shall be held in trust during the life of the insured, in the discretion of trustee, and collected upon the respective insured spouse's death. During the lifetime of the insured spouse, however, and while the insured spouse is acting as trustee, the insured spouse shall have no power over such policies as trustee. Any decisions with respect to such policies shall be made by the other trustees then acting. Trustee shall not apply these policies in any manner whatsoever for the insured spouse as beneficiary hereunder. During the lifetime of the owner of the rights, however, it is hereby agreed that his rights will remain such spouse's separate property with the insured spouse having no community or other interest therein.

(4) Upon the death of husband or wife, as the case may be, the trustee shall proceed immediately to collect the net proceeds of policies, if any, on the life of husband or wife, as the case may be, which are then payable to trustee, and shall hold

RED 9/7/11

such proceeds for the purposes and upon the trusts provided in Article VI of this agreement. Payment to trustee by an insurance company of the proceeds of any of such policies and receipt of such proceeds and release from such policies by trustee shall be a full discharge of the liability of such insurance company with respect to such proceeds, and no insurance company need inquire into or take notice of this agreement or see to the application of such payments. Trustee may, and upon being indemnified to its satisfaction against all costs and expenses so incurred, shall prosecute and maintain any litigation necessary to enforce payment of such policies.

5.F. Tangible Personal Property. While the husband and/or wife are living, husband and wife reserve the right to retain the control, use and possession of any or all of the tangible personal property included in the trust fund as one of the retained benefits from the trust fund. Husband and wife undertake to preserve and maintain all such retained property. Husband and/or wife expressly limit trustee's responsibility with respect to the property so retained to its function as the holder of legal title until husband and/or wife surrender his or her right to the use and possession of any such property or until his and/or her death. Husband and/or wife may surrender his and/or her right to the use and possession of any such property, and from time to time by written notice to trustee may resume the use and possession of any such surrendered property if it is then a part of the trust fund and available for such use. In addition, husband and/or wife shall have the right, exercisable by written notice to trustee on terms specified by them, to direct the sale, transfer, mortgage or other disposition of any such property, with or without consideration, and trustee shall take all actions necessary to comply with the terms of such notice. In the event husband and/or wife surrender any such property to trustee, or upon their deaths, trustee shall take possession, assume control, preserve and maintain such property. Trustee shall be responsible and accountable only for that tangible personal property in the trust fund which is actually in its possession or control or, if retained by husband and/or wife, is found by application of reasonable diligence in husband's or wife's possession or control at husband or wife's death or at such other time that trustee asserts control.

5.G. Real Property. Husband and/or wife reserve the right to have complete and unlimited use and control of any real property which may ever constitute an asset of the trust estate and which is occupied by husband and/or wife for residential purposes. Such ~~use and control~~ shall be without rent or other pecuniary accountability to trustee. As part of such use and control, husband and/or wife and not trustee shall have the responsibility to manage such property, pay taxes, insurance, water, rent and all other charges against the property, and may, at his or her option, charge such expenses to the trust fund, or may request reimbursement for any advances made by him and/or her for such purposes.

5.H. Special Authority to Husband and/or Wife as Co-Trustees. Husband and/or wife acting as co-trustees, during their joint lifetimes, may on each one's separate direction alone negotiate securities and bank or savings accounts, and deal with the entire trust fund and its assets, including also but not limited to any real property, without two signatures being required. Any third party dealing with the trust may rely upon this singular authority without any further evidence.

ARTICLE VI

DISPOSITION OF TRUST FUND

6.A. Trustee's Basic Duties. During the term of this trust agreement, trustee shall hold, manage, invest and reinvest the trust fund, collect the income and profits from it, pay the necessary expenses of trust administration, and distribute the net income and principal as provided in this ARTICLE VI.

6.B. Disposition During Settlers' Lifetime. During the joint lifetimes of husband and wife, trustee shall pay to them or apply for their benefit the entire net income of the community estate at least quarter-annually, or in more frequent installments. At the written request of husband or wife as co-managers of the community property, trustee shall pay to him or her as community property so much of the principal of the trust estate as he or she shall request. During the joint lifetimes of husband and wife, trustee shall also pay to husband or wife, respectively, or shall apply for their benefit, the entire net income of the husband's or wife's separate estate, quarter-annually or in more frequent installments. At the written request of husband or wife who transferred the separate estate to the trust, trustee shall pay to him or her so much of the principal of the separate estate established by him or her as he or she shall request.

6.C. Disposition During Settlers' Incapacity. If at any time, in trustee's discretion, either settlor has become physically or mentally incapacitated, whether or not a court of competent jurisdiction has declared him or her incompetent, mentally ill, or in need of a conservator, trustee shall pay to the other settlor, or apply for the benefit of either settlor first from the community estate, and then equally from the separate estate of settlors, the amounts of net income and principal necessary in trustee's discretion for the proper health, support, and maintenance of both settlors in accordance with their accustomed manner of living at the date of such incapacity, until the incapacitated settlor is again able to manage his or her own affairs, or until the earlier death of either settlor. The nonincapacitated settlor may also withdraw from time to time accumulated trust income and principal of community property. Income and principal from community property so paid or withdrawn shall be held and administered as community property by the nonincapacitated settlor. Any income in excess of the amounts

applied for the benefit of the settlors shall be accumulated and added to principal of the community or the separate estate as the case may be.

6.D. Division of Trust Fund Upon Death of First Settlor.
The first settlor to die shall be called the "Deceased Spouse" and the living settlor shall be called the "Surviving Spouse." On the death of the Deceased Spouse, trustee shall divide the trust fund, including any additions made to the trust by reason of his or her death, such as from the decedent's Will or life insurance policies on the decedent's life, into two separate trusts, designated the "Marital Trust" and the "Residual Trust."

(1) The Marital Trust shall include the Surviving Spouse's interest in settlors' community property, including the Surviving Spouse's interest in the settlors' quasi-community property, and the Surviving Spouse's separate estate, if any, included in or added to the trust fund in any manner, including any undistributed or accrued income on it. The Marital Trust shall also include that amount of the trust fund as shall equal the maximum marital deduction allowable for determining the federal estate tax payable by virtue of the death of the Deceased Spouse, without regard to any property as to which the Deceased Spouse is the "deemed transferor" as defined in Section 2612 of the Internal Revenue Code, reduced by the final federal estate tax values of all other property interests that pass or have passed to or in trust for the Surviving Spouse, and that qualify for the marital deduction; provided, however, that if after taking into account all other allowed deductions and credits for federal estate tax purposes in the estate of the Deceased Spouse, such maximum marital deduction amount is in excess of that required to result in no federal estate tax being due with respect to the Deceased Spouse's estate, then the amount which shall be allocated to the Marital Trust under this subparagraph shall be reduced to the minimum amount of such marital deduction which would result in a value for the Deceased Spouse's taxable estate on which there will be no federal estate tax payable, after taking into account the amount of all other such gifts to the Surviving Spouse qualifying for the marital deduction and all other available deductions and credits against the federal estate tax. This amount, as finally determined above, may be satisfied in cash or in kind, or partly in each, with assets eligible for the marital deduction; provided, however, that assets allocated in kind shall be deemed to satisfy this amount on the basis of their values at the date or dates of distribution to the Marital Trust.

The surviving spouse shall have the power to require trustee to make all or part of the principal of the Marital Trust productive or to convert promptly any unproductive part of the trust fund into productive property. This power shall be exercised by the Surviving Spouse in a written instrument delivered to trustee.

(2) It is the settlors' intention to have the Marital Trust qualify for the marital deduction under Section 2056 of the Internal Revenue Code and the regulations pertaining to that section or any corresponding or substitute provisions applicable to the trust fund. In no event shall trustee take any action or have any power that will impair the marital deduction, and all provisions regarding the Marital Trust shall be interpreted to conform to this primary objective.

(3) The Residual Trust shall consist of the balance of the trust fund.

(4) If the Surviving Spouse requires the use of the principal residence used by settlors during their joint lifetimes, either temporarily or permanently, such residence may be allocated in whole or in part to the Marital Trust, or to the Residual Trust, in which latter case the Surviving Spouse shall have the use of such property (or portion thereof). The allocation decision shall be made by trustee in its discretion after considering all the facts and circumstances then existing. Otherwise, settlors request, but do not direct that income items be allocated to the full extent possible to the Marital Trust.

6.E. Deferral of Division or Distribution. Whenever trustee is directed to make a distribution of trust assets or a division of trust assets into separate trusts or shares on the death of husband and/or wife, trustee may, in trustee's discretion, defer such distribution or division until six (6) months after such settlor's death.

When trustee defers distribution or division of the trust assets, the deferred division or distribution shall be made as if it had taken place at the time prescribed in this trust agreement in the absence of this paragraph, and all rights given to the beneficiaries of such trust assets under other provisions of this trust agreement shall be deemed to have accrued and vested as of such prescribed time.

6.F. Authorized Actions at Settlor's Deaths. At and after husband's death (and/or the wife's death), trustee is authorized and directed to pay over unto such settlor's executor, administrator, or personal representative so much of the trust fund (as hereinafter set forth in Paragraphs 6.G. and 6.K., and specifically limited to the Marital Trust at the death of the Surviving Spouse) as such executor, administrator, or personal representative shall state in writing is necessary or desirable to ~~pay such settlor's estate with funds with which to pay~~ settlor's funeral expenses, debts, cost of administration of settlor's estate and all of the taxes of settlor's estate, including transfer, estate and inheritance taxes which may be imposed upon settlor's estate, upon the trust fund and/or upon any property or interest in property, legal or equitable, which is included in settlor's estate for any such taxes, and any such statement of such settlor's executor, administrator, or personal

representative (regardless of the nature or extent of the assets held in settlor's estate) shall be binding and conclusive upon trustee and upon all persons and corporations having any interest in the trust fund.

(1) If such executor, administrator, or personal representative fails to furnish any such directions or if no such executor, administrator, or personal representative is appointed, trustee may, in its discretion, pay in whole or in part all debts which are due and enforceable against settlor's estate, the expenses of the last illness, funeral, and administration and all death taxes and other governmental charges imposed under the laws of the United States or of any state or country by reason of such death.

(2) If trust assets are utilized to pay any or all of the death taxes imposed under the laws of the United States, and to the extent contained in the trust fund, trustee shall first utilize those obligations of the United States which are redeemable at par when applied for such purposes (commonly referred to as "flower bonds"). Trustee is specifically authorized to utilize such obligations for payment of that portion of the estate tax attributable to assets which are not contained in the trust fund, but which are included in settlor's estate.

(3) Anything hereinbefore contained to the contrary notwithstanding, trustee shall not pay any of the charges, costs, taxes or other expenses as above specified in this Paragraph 6.F., next specified in Paragraph 6.G., as hereinbelow specified in Paragraph 6.K., or any other obligations of such settlor or such settlor's estate from funds received from qualified retirement plans that are excludable from such settlor's gross estate for federal estate tax purposes or from proceeds of insurance policies on such settlor's life. However, to the extent there are no other assets available for such purposes, or to the extent the trust includes insurance proceeds in excess of the amount of the insurance exemption available under the California Revenue and Taxation Code, trustee, in its discretion, may use insurance proceeds that are otherwise taxable in such settlor's estate for federal estate tax purposes for such payments.

6.G. Deceased Spouse's Expenses. On the death of the Deceased Spouse, and to the extent authorized by Paragraph 6.F. as hereinabove specified, trustee shall pay out of the trust fund such charges, costs, taxes or other expenses in the following manner:

(1) Any payment for estate or inheritance taxes shall be charged to and paid from the Residual Trust without apportionment or charge against any beneficiary of the trust fund.

(2) Payments for last-illness, funeral and other administration costs shall be charged to the Residual Trust, provided, however, that administration costs allocable to the

Surviving Spouse's share of the community property administered in the Deceased Spouse's estate shall be charged to the Marital Trust.

(3) Payment of any of decedent's debts shall be charged against the Residual Trust, provided, however, that to the extent that the Marital Trust includes any interest in the survivor's share of the community property, debts allocable against community property shall be charged against the Marital Trust and the Residual Trust in accordance with California law in effect at the date of decedent's death, but the charges against the Marital Trust shall not exceed the value of the survivor's share of the community property allocable to the Marital Trust.

6.H. Payments of Income to Surviving Spouse. Trustee shall pay to or apply for the benefit of the Surviving Spouse the net income of both the Marital Trust and the Residual Trust in quarter-annual or more frequent installments.

6.I. Payments of Principal to Surviving Spouse.

(1) If trustee considers the income of said trusts to be insufficient, trustee shall also pay to or apply for the benefit of the Surviving Spouse such sums out of the principal of the Marital Trust as trustee, in trustee's discretion, shall consider necessary for the Surviving Spouse's proper health, support, comfort, enjoyment, and welfare. In addition, trustee shall pay the Surviving Spouse as much of the principal of the Marital Trust as the Surviving Spouse shall request in writing.

Trustee shall exercise in a liberal manner the power to invade principal of the Marital Trust, and the rights of the remaindermen in the trust shall be considered of secondary importance.

(2) If trustee considers the income of both trusts and the principal of the Marital Trust to be insufficient, trustee shall also pay to or apply for the benefit of the Surviving Spouse such sums out of the principal of the Residual Trust as trustee, in trustee's discretion, shall consider necessary for the Surviving Spouse's proper health, support and maintenance.

Payments out of principal to the Surviving Spouse shall be made first out of the Marital Trust until it is exhausted and thereafter out of the Residual Trust, except that all or any part of those payments of this subparagraph (2) may be made from the Residual Trust without exhausting the Marital Trust if trustee considers it advisable.

6.J. Special Withdrawal Rights of Surviving Spouse. In addition to any other payments that husband or wife, as Surviving Spouse, may receive, trustee shall pay to him or her during his or her lifetime from the principal of the Residual Trust, such amounts as such Surviving Spouse may from time to time request in

writing, not exceeding in any calendar year the greater of the following amounts: Five Thousand Dollars (\$5,000.00) or five percent (5%) of the value of the principal of the trust, determined as of the end of the calendar year. This right of withdrawal is noncumulative, so that if the Surviving Spouse does not withdraw, during any calendar year, the full amount to which he or she is entitled under this provision, the right to withdraw the amount not withdrawn shall lapse at the end of that calendar year.

6.K. Power of Appointment in Surviving Spouse. On the death of the Surviving Spouse, trustee shall distribute the balance then remaining, if any, of the Marital Trust, including both principal and any accrued or undistributed income, to such one or more persons or entities, including the Surviving Spouse's own estate, and on such terms and conditions, either outright or in trust, as the Surviving Spouse shall appoint by a Will specifically referring to and exercising this general power of appointment. Any of the Marital Trust not effectively appointed by the Surviving Spouse in this manner shall be added to the Residual Trust, to follow the disposition thereof in all respects as hereinafter provided; however, trustee shall, to the extent and in the manner authorized by Paragraph 6.F. (as hereinabove specified), first pay out of the Marital Trust not so appointed, the Surviving Spouse's last illness and funeral expenses, attorney's fees and other costs incurred in administering his or her probate estate, other obligations incurred for his or her support, and any estate or inheritance taxes (including interest and penalties) occasioned by the Surviving Spouse's death.

* 6.L. Distribution at Surviving Spouse's Death. On the death of the Surviving Spouse, trustee shall hold, administer and distribute the Residual Trust, as then constituted, or the entire trust fund, as the case may be, all of which is hereafter referred to as the "Trust Estate," as follows:

Trustee shall transfer and deliver, free of trust, such items of settlors' tangible personal property as may then be included in the Trust Estate to settlors' children who survive the Surviving Spouse by thirty (30) days in accordance with any written instructions left by settlors or, if no such instructions are left, in equal shares as said children shall agree. If said children cannot agree, such property shall be divided among said children by trustee in as nearly equal shares as trustee, in trustee's absolute discretion, shall deem practicable having due regard for the personal preferences of said children.

Trustee shall divide the Trust Estate into shares for settlors' then living issue so that the number of shares set aside, the issue for whom such shares shall be set aside and the relative values thereof shall be determined per stirpes.

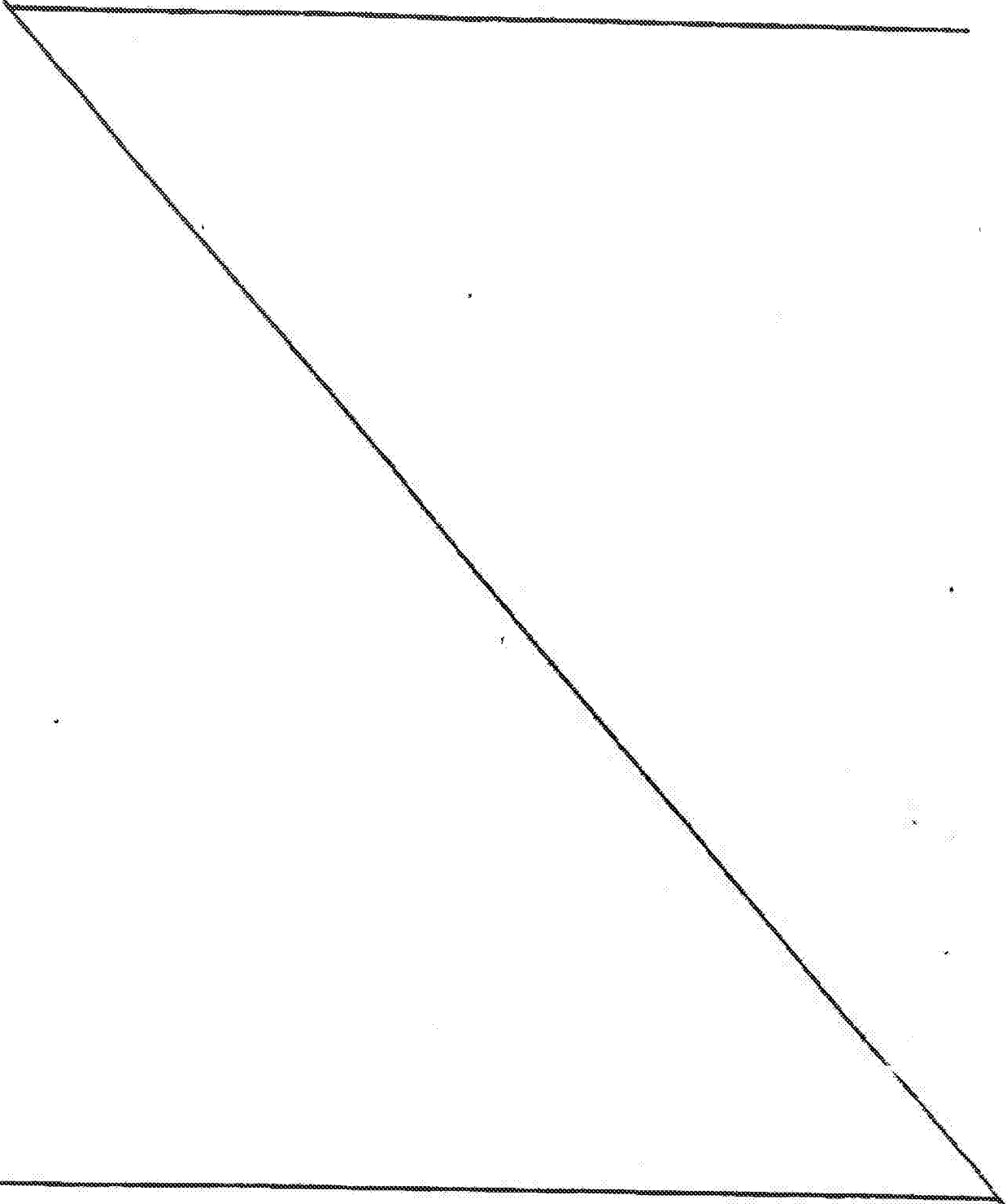
As to each share set aside for any of settlors' then living children, trustee shall hold the same in further trust hereunder and pay over the net income of such share, as the same may then be constituted, unto the child for whom such share shall be set aside for and during the remainder of the life of such child or until the whole of such share shall have been sooner distributed unto him or her. Trustee shall also pay over unto such child, after he or she shall have attained the age of twenty-one (21) years, so much of the principal of the share set aside for such child as he or she shall request in writing at any time or times; provided, however, that the aggregate of all such payments of principal so made unto such child prior to his or her attaining the age of twenty-five (25) years shall not exceed one-quarter of the value of the share set aside for him or her at the time of the setting aside of such share; provided further that the aggregate of all such payments of principal so made unto such child prior to his or her attaining the age of thirty (30) years shall not exceed one-half of the value of the share set aside for him or her at the time of the setting aside of such share; provide further that the aggregate of all such payments of principal so made unto such child prior to his or her attaining the age of thirty-five (35) years shall not exceed three-quarters of the value of the share set aside for him or her at the time of the setting aside of such share.

In the event of the death of any child of settlors for which child a share or any undistributed part thereof shall then be held in trust hereunder, trustee shall (upon the death of such child) transfer and deliver forthwith such share, or the undistributed part thereof as shall then be held in trust hereunder, free from this trust, unto such of the then living issue, per stirpes, of the child so dying, or if there shall be no issue then living of such child so dying, then unto settlors' then living issue (whenever born), per stirpes, provided that any portion of the share of such child so dying distributable to any other child of settlors for whose benefit a share or part of a share shall then be held in trust hereunder shall be added to the share or part of a share then being held for such then living child, and shall thenceforth be held, administered and distributed as a part thereof.

As to each share so set aside (at the time hereinbefore provided for the division of the trust fund into shares) for an issue of settlor more remote than a child of settlor, trustee shall transfer and deliver forthwith unto such issue the share set aside for him or her.

If no issue of settlors' shall be living at the death of settlors, then upon the death of the surviving spouse, or if any of settlors' children for whom a share of the Trust Estate shall have been set aside shall die prior to the distribution of the whole of such share without there being any issue of settlors surviving such child, then upon the death of such child, trustee

shall transfer and deliver such part of the trust fund as shall then be held in trust hereunder to husband's brother, JOHN FLINT DILLE, Jr., or his issue by right of representation.



TRUST: PAGE 25

red 9/9/15

Executed this 16th day of August, 1979, in the City of Monterey, County of Monterey, State of California.

Robert C. Dille
ROBERT C. DILLE,
Settlor

Virginia N. Dille
VIRGINIA N. DILLE,
Settlor

Witness:

Louise [Signature]
Stanley J. [Signature]

I hereby state that the terms of this trust agreement meet the desired intentions of settlors and are in the proper legal form.

Dennis W. Fox
DENNIS W. FOX,
Attorney for Settlers

We hereby acknowledge receipt of the property described in Schedule A, accept the terms of THE DILLE FAMILY TRUST, and covenant that we will execute the trust with all due fidelity.

Robert C. Dille
Trustee

Virginia N. Dille
VIRGINIA N. DILLE,
Trustee

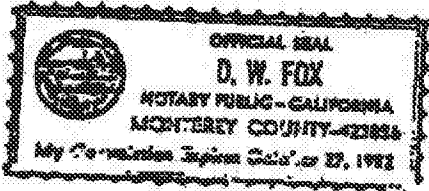
STATE OF CALIFORNIA)

COUNTY OF MONTEREY)

ss.

On this, the 16th day of August, 1979, before me, the undersigned, personally appeared ROBERT C. DILLE and VIRGINIA N. DILLE, known to me to be the persons whose names are subscribed to the within trust agreement as settlors and trustees, and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



[Handwritten Signature]

NOTARY PUBLIC

SCHEDULE A

Schedule A to THE DILLE FAMILY TRUST includes the following:

- 1. Ten Dollars (\$10.00) in cash

ROBERT C. DILLE COAST ROAD, NO. 1 ROUTE 1, BOX 228 CARMEL, CA 93923		9055
PAY TO THE ORDER OF <u>Dille Family Trust</u>		August 16, 1979 \$ 10.00
<u>Ten and 00/100</u>		DOLLARS
CHECK OFFICE WELLS FARGO BANK <small>NATIONAL ASSOCIATION</small> SAN CARLOS ST., CARMEL, CA 93921		
_____ VIRGINIA N. DILLE		
⑆121000248⑆055 0412 302226⑆		

ACCEPTED:

DATE: August 16th, 1979

Robert C. Dille
 ROBERT C. DILLE,
 Trustee

Virginia N. Dille
 VIRGINIA N. DILLE,
 Trustee

EXHIBIT C

This Opinion is not a
Precedent of the TTAB

Mailed: September 25, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Dille Family Trust

v.

Nowlan Family Trust

Opposition No. 91200643

Vincent G. LoTempio and Daniel I. Herman of Kloss, Stenger & LoTempio for Dille Family Trust.

John J. O'Malley of Volpe and Koenig P.C. for Nowlan Family Trust.

Before Cataldo, Adlin and Masiello,
Administrative Trademark Judges.

Opinion by Masiello, Administrative Trademark Judge:

Nowlan Family Trust ("Applicant") filed an application¹ to register the mark
BUCK ROGERS in standard characters for the following goods and services:

Motion picture films about science fiction, fantasy
heroism and action adventure; science fiction, and motion
picture films about fantasy heroism and action adventure
for broadcast on broadcast mediums; audio tapes, audio-
video tapes, audio video cassettes, audio video discs, and

¹ Application Serial No. 77650082, filed on January 15, 2009 under Trademark Act Section 1(b), 15 U.S.C. § 1051(b), on the basis of Applicant's alleged bona fide intention to use the mark in commerce.

EXHIBIT "B"

TRADEMARK
REEL: 006765 FRAME: 0050

digital versatile discs featuring music, comedy, drama, action, adventure, and animation; stereo headphones; batteries; cordless telephones; audio cassette and CD players; CD ROM computer game discs; telephone and radio pagers; short motion picture films about science fiction, fantasy heroism and action adventure and adventure; video cassette recorders and players, compact disc players, digital audio recorders and players; radios; mouse pads; eyeglasses, sunglasses and cases therefore; game equipment, namely, video game machines for use with televisions, hand-held electronic games adapted for use with television receivers only and player operated electronic controllers for electronic video game machines; video and computer game programs; video game cartridges and cassettes; cellular telephone accessories, namely, cell phone covers, batteries, fitted plastic films known as skins for covering and providing a scratch proof barrier, decorative charms, decorative ornaments, headsets, boosters, connectivity kits and memory cards; encoded magnetic cards, in International Class 9;

Printed matter and paper goods, namely, books featuring science fiction, fantasy heroism and action adventure, comic books, magazines featuring science fiction, fantasy heroism and action adventure; stationery, writing paper, envelopes, notebooks, diaries, note cards, greeting cards, trading cards; lithographs; pens, pencils, cases therefor, erasers, crayons, markers, colored pencils, painting sets for children, chalk and chalkboards; decals, heat transfers; posters; mounted and unmounted photographs; book covers, book marks, calendars, gift wrapping paper; Paper party decorations; Printed patterns for costumes, pajamas, sweatshirts and t-shirts; paper party favors, in International Class 16;

Clothing, namely, pajamas, t-shirts, shirts, jumpers, sweatshirts, vests, coats, jackets, overcoats, trousers, shorts, socks, gloves, ties, scarves, skirts, underwear, footwear; headgear, namely, hats, caps, head scarves, baseball caps and headbands, clothing accessories, namely, belts, gloves, suspenders, sweat bands, straps for bras, in International Class 25;

Toys, namely, musical toys, inflatable toys, electric action toys, punch toys, plush toys, talking toys, toy cars, role-

playing toys in the nature of play sets for children to imitate real life occupations, toy boats, toy airplanes, toy weapons, toy rocket ships, construction toys, toy putty, toy scooters, toy action figures and accessories for use with toy action figures, toy model vehicles, water squirting toys and toy model space craft, toy building blocks, toy model hobby craft kits comprising paints, beads, ceramics, plastics, crayons, stencils, toy model vehicles and related accessories sold as a units, toy modeling dough kits comprising toy modeling dough, molds and accessories for use therewith sold as units, toy vehicles, toy weapons, toy model vehicles and accessories therefor sold as a unit, wind-up toys and miniature toy helmets; sporting goods, namely, beach balls, playground balls, soccer balls, sport balls, baseball balls, basketball balls, baseball bats, and baseball gloves; games, namely, action type target games, board games, card games, hand held units for playing electronic games other than those adapted for use with an external display screen or monitor, virtual arcade shooting game machines, trading card games, parlor games, action skill games, coin operated and non-coin operated pinball machine games, stand alone video game machines, collectible card games, and collectible miniature board games, in International Class 28;

Entertainment services, namely, an on-going series provided through broadcast mediums, namely, television, webcasts, and radio broadcasts, in International Class 41.

Dille Family Trust (“Opposer”) opposed registration of the mark on the ground that the mark, as intended to be used in connection with the identified goods and services, so resembles Opposer’s mark BUCK ROGERS as to be likely to cause confusion, mistake or deception under Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d); and dilution under Trademark Act Section 43(c), 15 U.S.C. § 1125(c).² Opposer asserts that it has used the mark BUCK ROGERS in connection with a variety of goods and services, commencing at least as early as 1928. Opposer also

² Opposer’s reference to Trademark Act Section 43(a) as an additional basis for its dilution claim is inapposite.

pleaded ownership of two pending applications, Serial Nos. 77831393 and 77831213, and two expired registrations, Nos. 0714184 and 1555871.

Applicant, in its answer, denied the salient allegations in the notice of opposition. The case is fully briefed.

I. The record.

The record includes the pleadings and, by operation of Trademark Rule 2.122, 37 C.F.R. § 2.122, the application file for the opposed mark.³

Applicant has submitted no evidence or testimony.

Opposer has filed the following:

- Testimony deposition of Louise A. Geer, Esq., Opposer's Trustee, with exhibits (40-41 TTABVUE).
- Notice of reliance on information from the USPTO's online database relating to Opposer's pending applications Nos. 77831213 and 77831393; and pages from a publication called Previews (49 TTABVUE).

II. Standing.

Ms. Geer testified that Opposer has produced a series of books with titles including "Buck Rogers in the 25th Century: The Western Publishing Years," "Buck Rogers in the 25th Century: the complete newspaper dailies," and "Buck Rogers in the 25th Century: the complete Sundays."⁴ It is therefore clear that Opposer has a real interest in the outcome of this proceeding. See *Ritchie v. Simpson*, 170 F.3d 1092, 1095, 50 USPQ2d 1023, 1026 (Fed. Cir. 1999); *Jewelers Vigilance Committee*,

³ Applicant filed a notice of reliance on information relating to its involved application, taken from the USPTO's online database (44 TTABVUE); and subsequently filed a notice of reliance seeking to delete that matter from the record (50 TTABVUE). Nonetheless, as noted, the entire application file is automatically of record.

⁴ Geer Exhibit 19, 41 TTABVUE 3-69.

Opposition No. 91200643

Inc. v. Ullenberg Corp., 823 F.2d 490, 492-493, 2 USPQ2d 2021, 2023-24 (Fed. Cir. 1987). Opposer has therefore established its standing to oppose registration of Applicant's mark. See Ritchie v. Simpson, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999); Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185 (CCPA 1982); Swiss Grill Ltd. V. Wolf Steel Ltd., __ USPQ2d __ (TTAB 2015); Conolty v. Conolty O'Connor NYC LLC, 111 USPQ2d 1302, 1308 (TTAB 2014); Giersch v. Scripps Networks Inc., 90 USPQ2d 1020, 1022 (TTAB 2009) (standing established by showing of common law rights).

III. Opposer's claim under Section 2(d).

Opposer brings its opposition under Trademark Act Section 2(d) on the ground of likelihood of confusion. Under Section 2(d), the Patent and Trademark Office may refuse registration of a mark that "so resembles ... a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods [or services] of the applicant, to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. § 1052(d). We address first the issue of priority.

The earliest date of use that Applicant claims, for its part, is January 15, 2009, the date on which it filed the opposed application. ("Applicant does not dispute that it has not alleged a date of first use earlier than this date.")⁵ Applicant is entitled to rely on that date as its date of constructive use. Cent. Garden & Pet Co. v. Doscocil

⁵ Applicant's brief at 14-15, 54 TTABVUE 23-24.

Mfg. Co., 108 USPQ2d 1134, 1140 (TTAB 2013); Larami Corp. v. Talk To Me Programs Inc., 36 USPQ2d 1840 (TTAB 1995).

Opposer contends that its rights in the mark BUCK ROGERS date back to the earliest publication of a newspaper comic strip regarding the fictional hero named Buck Rogers. The evidence indicates that an Illinois corporation called National Newspaper Service entered into a series of agreements (dated August 27, 1926, November 15, 1929 and May 1, 1933) with an author named Philip F. Nowlan under which Mr. Nowlan would supply “material suitable for newspaper publication,” also described as “A story in strip form of conditions in America some five hundred years hence.”⁶ The agreements anticipate that the work might be variously entitled “Buck Rogers”; “Buck Rogers 2429 A.D.”; and “Buck Rogers 2433 A.D. (or in the Twenty-Fifth Century).” On September 2, 1932, the same parties entered an agreement to allow National Newspaper Service to sell related radio broadcast rights of “Buck Rogers 2432 A.D. (or 25th Century).”⁷ In these agreements, the signature for National Newspaper Service appears to read “John F. Dille.”

In 1936, an entity called John F. Dille Co. had dealings with Universal Pictures Company, Inc.⁸ A recital in their agreement states:

WHEREAS, Dille represents that it is the sole owner of the copyright and of all rights hereinafter stated to be granted to Universal in and to a certain newspaper feature consisting of a series of comic pages entitled

⁶ Geer Exhibits 1, 2 and 4, 40 TTABVUE 93-98, 101-103.

⁷ Geer Exhibit 3, 40 TTABVUE 99-100.

⁸ Agreement of January 11, 1936, Geer Exhibit 6, 40 TTABVUE 109-110. The record contains only the cover page and the first page.

“BUCK ROGERS” and controls the trademarks and titles;
...⁹

An agreement of June 17, 1937 among National Newspaper Service, Philip Nowlan, and Richard Calkins states that “John Dille Co. is a party to this contract in all respects and in the same manner as it applies to National and agrees to be bound hereby.¹⁰ It also contains the following release:

Nowlan and Calkins hereby waive and release any objection or right of any kind they might have now or hereafter in respect to the production of motion pictures of BUCK ROGERS material by any party or parties with whom National may contract, or have the opportunity of contracting, respecting said motion picture rights in favor of said party or parties. Nolan and Calkins also waive and release any right they might have to obtain compensation therefor from said party or parties. This provision is to safeguard said party or parties in the production of said motion pictures against any objection by Nowlan and/or Calkins. ...

On the basis of these documents, it is plausible (but not certain) that Phillip Nowlan may have developed trademark rights in marks that include the designation BUCK ROGERS, inasmuch as he appears to have produced and delivered to National Newspaper Service a series of newspaper strips under those titles. The title of a series of works can function as a trademark. In re Polar Music Int'l AB, 714 F.2d 1567, 221 USPQ 315, 318 (Fed. Cir. 1983). If such rights existed, we would not consider the June 17, 1937 release to have divested Mr. Nowlan of

⁹ Id., 40 TTABVUE 110.

¹⁰ Geer Exhibit 5, 40 TTABVUE 105-108. There is no signature on behalf of John F. Dille Co., although the signatory for National Newspaper Service appears to be John F. Dille.

them, as he released only those rights relating to the production of motion pictures by certain particular parties.

If we assume that Mr. Nowlan's trademark rights existed, the record indicates that, after multi-party litigation involving Mr. Nowlan's estate, they were transferred to John F. Dille. A "Full and Compete Release and Assignment" dated May 14, 1942, executed by Teresa Maria Nowlan, as executrix of Mr. Nowlan's will, states:

The party of the first part [Ms. Nowlan] hereby assigns, releases, waives and conveys all ... rights and interests of any kind whatsoever ... in and to all trade-marks, good will, titles including specifically "Buck Rogers" and "Buck Rogers In The 25th Century" and all characters, patents and inventions and all other subject matter relating in any way to the Buck Rogers features to John F. Dille.¹¹

Here the chain of title beginning in 1926, to the extent that we can trace it on this record, ends. Thereafter, the entire roster of interested parties appearing in the record changes. Opposer is not John F. Dille, but the Dille Family Trust. Nothing in the record explains the connection between the two, if any, and nothing shows how any trademark rights of Mr. Dille were transferred to Opposer, if they were transferred at all. There are three later assignments (two of which are represented in the record only by their first and last pages) that indicate transfers of unspecified marks and registrations that are identified only by registration number, as follows:

February 1, 1968: Robert C. Dille assigned nine marks and registrations to National Newspaper Syndicate, Inc.¹²

¹¹ Geer Exhibit 8, 40 TTABVUE 114.

¹² Geer Exhibit 62, 40 TTABVUE 168-169.

Opposition No. 91200643

May 31, 1974: National Newspaper Syndicate, Inc. assigned seven marks and registrations to Robert C. Dille.¹³

September 24, 1982: Robert C. Dille assigned 16 marks and registrations to himself and Virginia N. Dille in their capacities as Trustees of The Dille Family Trust.¹⁴

There is another assignment, also dated September 24, 1982, that actually refers to the mark BUCK ROGERS. That document states that Robert C. Dille assigns 2 marks (TIGER MAN and BUCK ROGERS) and registrations to himself and Virginia N. Dille in their capacities as Trustees of The Dille Family Trust.¹⁵ It is in the two 1982 documents described above that Opposer makes its first appearance in this record, but the record shows no connection between the properties described therein and any rights that may have been in the hands of John F. Dille or Philip F. Nowlan. The testimony shows that Robert C. Dille was the son of John F. Dille, and it appears that Virginia Dille was Robert's wife.¹⁶ However, the record shows no transfer of any property, much less the specific properties at issue in this case, between John and Robert Dille. If there is any relationship between National Newspaper Service and National Newspaper Syndicate, Inc., it remains unexplained. Accordingly, we can find, on this record, no connection between Opposer and any trademark rights arising at the time of the original issuance of the Buck Rogers newspaper strips.

¹³ Geer Exhibit 61, 40 TTABVUE 166-167.

¹⁴ Geer Exhibit 59, 40 TTABVUE 162-163.

¹⁵ Geer Exhibit 60, 40 TTABVUE 164-165.

¹⁶ Geer 69:8-12, 40 TTABVUE 71.

Opposition No. 91200643

Of course, Opposer need not trace its rights back to the earliest days of the Buck Rogers newspaper strip in order to prevail in this proceeding. Opposer need only show that its rights arose prior to January 15, 2009. We therefore consider whether Opposer has demonstrated such rights.

The record shows that Opposer has issued a series of publications with titles such as “Buck Rogers”; “Buck Rogers in the 25th Century: The Western Publishing Years”; “Buck Rogers 25th Century A.D.”; “Buck Rogers in the 25th Century: the complete newspaper dailies” (in numerous volumes); “Buck Rogers in the 25th Century: the complete Sundays”; and “Buck Rogers in the 25th Century: The Dailies and Sundays 1979-1980.”¹⁷ However, with the exception of the first three volumes of the “complete newspaper dailies” compilation, all of these bear copyright notices dated 2010 or later; and there is no evidence to indicate that Opposer published these works at an earlier date.

The first three volumes of “Buck Rogers in the 25th Century: the complete newspaper dailies” bear copyright notices reading “Copyright © 2009 The Dille Family Trust, reprinted with permission.” These notices have limited evidentiary weight. At best, they are hearsay statements to the effect that the works were first published in 2009. See 17 U.S.C. § 401(b)(2). In any event, even if we consider these notices as evidence that the works were published in 2009, we have no way of knowing whether they were published before or after January 15 of that year. There

¹⁷ Geer Exhibit 19, 41 TTABVUE 3-69.

Opposition No. 91200643

is no testimony or other evidence on this point. We have given due consideration to the copyright notice at 41 TTABVUE 15, which reads as follows:

Buck Rogers and Buck Rogers in the 25th Century® © 1964, 1979-80 and 2013 Dille Family Trust. ...

Dates of original publication: Buck Rogers #2, August, 1979; #3, September, 1979; #4, October, 1979; #5, December, 1979; #6, February 1980; #7, April, 1980; and #1, 1964.

The assertion of dates of publication in a copyright notice is hearsay and cannot be accepted for the truth of the matter asserted. There is no evidence of record to show that Opposer issued the publications of 1964 and 1979-80 mentioned in the notice; nor is there any evidence to suggest that any person or entity related to Opposer had rights in the BUCK ROGERS mark as of those dates. Indeed, nothing connects Opposer to the mark prior to 1982 (the date that Robert C. Dille purported to transfer the mark BUCK ROGERS to Opposer).¹⁸ Although the record does show substantial activity by Opposer under various BUCK ROGERS marks beginning in 2009, the record does not prove any such trademark use prior to Applicant's filing date of January 15, 2009.

We have given due consideration to the testimony of Louise Geer, Opposer's current trustee, who was appointed in 2011. She testified, for example:

The Dille Family Trust has used this mark continuously since – well, at least 1929 and when they started with the memorandum of agreement, and then they started the newspaper strip. They've done movies, they did all kinds of paraphernalia, sales, et cetera, over the years.¹⁹

¹⁸ 40 TTABVUE 164-165.

¹⁹ Geer 27:8-14, 40 TTABVUE 29.

Opposition No. 91200643

On this point, we find Ms. Geer's testimony to be unclear. The record does not support the suggestion that The Dille Family Trust even existed in 1929; rather, documents of record indicate that the trust was created in 1979.²⁰ Where a party seeks to establish its priority by means of the testimony of a single witness, the testimony must be "clear, convincing, consistent and sufficiently circumstantial to convince the trier of facts of its probative value," and "not characterized by inconsistencies, contradictions and indefiniteness." *H. Betti Industries, Inc. v. Brunswick Corporation*, 211 USPQ 1188, 1197 (TTAB 1981); see also *Powermatics, Inc. v. Globe Roofing Products Co.*, 341 F.2d 127, 144 USPQ 430, 432 (CCPA 1965); *Productos Lacteos Tocumbo S.A. de C.V. v. Paleteria La Michoacana Inc.*, 98 USPQ2d 1921, 1931 (TTAB 2011). However, Ms. Geer's testimony is inconsistent with other evidence of record. For example, her testimony refers to certain agreements purportedly involving Opposer, while the documents of record indicate that Opposer was not a party.²¹

Opposer's evidence indicates that the process of producing the BUCK ROGERS publications of 2009 through 2013 began prior to the filing of Applicant's application; however, that contention is supported by only a single page of evidence: the first page of an agreement between Opposer and Herman and Geer

²⁰ See, e.g., Geer Exhibit 33, 40 TTABVUE 122 (referring to "the trust instrument dated August 16, 1979").

²¹ See, e.g., Geer 21:13-21; 28:1-12, 40 TTABVUE 23, 30; compare Geer Exhibit 6, agreement of January 11, 1936 between Universal Pictures Company, Inc. and John F. Dille Co., 40 TTABVUE 109-110; and Exhibit 13, agreement of May 12, 1977 between Universal Television and Leisure Concepts, Inc., 40 TTABVUE 117-118.

Opposition No. 91200643

Communications.²² The agreement appears to relate to Opposer's intention to grant "a non-exclusive license to publish the entire newspaper strip run of Buck Rogers in the 25th Century ..." At the top of the page is the date "3/16/2008," and Opposer's witness stated that the agreement was dated March 16, 2008.²³ The act of entering into such an agreement is not use of a trademark; but we have considered whether it indicates the kind of use analogous to trademark use that would be sufficient to give rise to proprietary rights. We find that it does not. "Before a prior use becomes an analogous use sufficient to create proprietary rights, the [plaintiff] must show prior use sufficient to create an association in the minds of the purchasing public between the mark and the [plaintiff's] goods. ... [T]he activities claimed to create such an association must reasonably be expected to have a substantial impact on the purchasing public ..." *Herbko International Inc. v. Kappa Books Inc.*, 308 F.3d 1156, 64 USPQ2d 1375, 1378 (Fed. Cir. 2002). This single page, relating to a single contemplated transaction within the publishing trade, can tell us nothing about any impact on the minds of the purchasing public.

The one other piece of evidence that involves Opposer and is dated prior to Applicant's filing date is the front page of a Memorandum of Agreement dated as of October 31, 1996 between Walt Disney Pictures and Opposer.²⁴ To the extent that we can surmise, the contemplated agreement appears to grant to Disney "the exclusive and irrevocable option ('Option') to acquire all right, title and interest ...

²² Geer Exhibit 19, 41 TTABVUE 2.

²³ Geer 31:3-6, 40 TTABVUE 33.

²⁴ Geer Exhibit 14, 40 TTABVUE 119.

Opposition No. 91200643

including, without limitation, the exclusive motion picture, television, digital television, video and computer games, videocassette, video and laser disc, computer assisted media (including but not limited to CD-ROM," [the page ends here]. The Preamble refers to rights in and to

the comic book character "BUCK ROGERS" owned by Owner and any and all publications and radio programs based thereon (collectively referred to as the "Property") in connection with a proposed motion picture based thereon tentatively entitled "BUCK ROGERS" (the "Picture").

This document makes no mention of any trademark. In any event, it does not demonstrate that either Opposer or Disney ever used a BUCK ROGERS trademark on any product. Accordingly, it does not demonstrate trademark rights, much less that Opposer has prior rights in the mark BUCK ROGERS.

Finally, the record contains a number of "deal memos" relating to product licenses. However, they bear dates from May 5, 2010 through September 23, 2013.²⁵ Accordingly, they cannot prove use of the BUCK ROGERS mark by Opposer prior to January of 2009.

After careful review of all of the evidence of record, we find that Opposer has failed to demonstrate proprietary rights in the BUCK ROGERS designation prior to Applicant's filing date. See *Otto Roth & Co., v. Universal Foods Corp.*, 640 F.2d 1317, 209 USPQ 40, 43 (CCPA 1981); see also 15 U.S.C § 1052(d). On this record, Opposer's claim under Section 2(d) must therefore fail, and we need not consider the other elements of Opposer's claim of likelihood of confusion.

²⁵ Geer Exhibits 51, 34, 36, 37, 39, 40, 42, 43, 53, 40 TTABVUE 139-155.

IV. Opposer's claim under Section 43(c).

We turn now to Opposer's claim of dilution under Section 43(c). Applicant filed its application under Trademark Act Section 1(b), on the basis of its intent to use its mark. Where such an application is opposed, an essential element of a dilution claim is a demonstration that the opposer's mark became famous prior to the filing date of the application. *Midwestern Pet Foods Inc. v. Societe des Produits Nestle S.A.*, 685 F.3d 1046, 103 USPQ2d 1435, 1439, citing *Toro Co. v. ToroHead Inc.*, 61 U.S.P.Q.2d 1164, 1174 (TTAB 2001); see also 15 U.S.C. 1125(c). Inasmuch as Opposer cannot demonstrate its proprietary interest in the asserted mark prior to Applicant's filing date, as demonstrated above, Opposer cannot make the necessary showing of fame as of an appropriate time, and its claim of dilution must fail.

Decision: The opposition is dismissed as to both asserted grounds, Trademark Act Sections 2(d) and 43(c).

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE DILLE FAMILY TRUST,

Plaintiff,

v.

THE NOWLAN FAMILY TRUST,

Defendant.

CIVIL ACTION NO. 15-6231

STIPULATION AND ORDER OF DISMISSAL

In light of and subject to the Parties', the Dille Family Trust and Defendant the Nowlan Family Trust, agreement to settle, the Parties by and through their undersigned attorneys, stipulate to the dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(B) of all claims filed in the above-captioned action.

All parties shall bear their own costs, expenses and attorney fees.

Respectfully submitted,

Kloss, Stenger & LoTempio

/s/ David Kloss

David Kloss, Esq. (admitted *pro hac vice*)

Kloss, Stenger & LoTempio

69 Delaware Ave. Suite 1003

Buffalo, NY 14202

Tel: (716) 853-1111

dkloss@klosslaw.com

Attorneys for Plaintiff

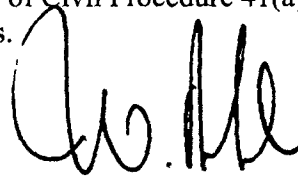
VOLPE AND KOENIG, P.C.

/s/ John J. O'Malley

John J. O'Malley (Pa ID. 68,222)
United Plaza, 30 South 17th Street
Philadelphia, Pennsylvania 19103
Tel: (215) 568-6400
jomalley@vklaw.com

Attorneys for Defendant

It is ORDERED this 4th day of March that the above-captioned case is dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(B) with each party to bear their own costs, expenses and attorney fees.



Honorable Wendy Beetlestone
United States District Court Judge

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**THE DILLE FAMILY TRUST,
Plaintiff,**

v.

**THE NOWLAN FAMILY TRUST,
Defendant.**

CIVIL ACTION

NO. 15-6231

ORDER

AND NOW, this 21st day of August, 2019,

1. WHEREAS, on February 28, 2019, the parties, the Dille Family Trust and the Nowlan Family Trust, entered a Rule 41(a)(1)(A)(ii)¹ signed joint stipulation dismissing this action;

2. WHEREAS, on May 23, 2019, the beneficiaries of the Dille Family Trust (the “Dille Beneficiaries”) filed a Motion to Set Aside Judgement pursuant to Rule 60(b) (ECF No. 193);

3. WHEREAS, on June 11, 2019, the Dille Beneficiaries filed a Motion to Intervene (ECF No. 200);

4. WHEREAS, in opposing the motions, the parties asserted that this Court does not have jurisdiction over the Dille Beneficiaries’ motions for three reasons: (1) the entry of the stipulated dismissal terminated this Court’s jurisdiction over the suit since the stipulation did not provide that the Court would retain jurisdiction over the settlement agreement; (2) the Dille Beneficiaries’ motions are barred under the third prong of the federal probate exception because

¹ The settlement was effected pursuant to Rule 41(a)(1)(A)(ii) because the Dille Family Trust filed “a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(ii). This is so despite the fact that the stipulation filed with the Court explicitly cites only Rule 41(a)(1)(B). That section speaks to the effect of dismissal, noting that “the dismissal is without prejudice” “[u]nless the notice or stipulation states otherwise.” Fed. R. Civ. P. 41(a)(1)(B). The parties explicitly dismissed the action “with prejudice.”

the Dille Family Trust's assets are now subject to the jurisdiction of the Pennsylvania probate court; (3) the Dille Beneficiaries lack standing (ECF Nos. 197, 199, 207, 208);

5. **WHEREAS**, the Dille Beneficiaries make no substantive argument as to the effect of the Rule 41(a)(1)(A)(ii) stipulated dismissal on this Court's jurisdiction. Nor do they address the operation of the probate exception other than to simply state that vacatur of an order "procured through a fraud on the court . . . [is not] subject to any probate exception." Nor do they make any argument as to standing;

6. **WHEREAS**, "the party asserting a federal court's jurisdiction bears the burden of proving that jurisdiction exists." *Nuveen Mun. Tr. ex rel. Nuveen High Yield Mun. Bond Fund v. WithumSmith Brown, P.C.*, 692 F.3d 283, 293 (3d Cir. 2012); *see also Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). "Federal courts are presumed not to have jurisdiction without affirmative evidence of this fact." *Nuveen*, 692 F.3d at 293;

7. **WHEREAS**, the Dille Beneficiaries have failed to show that jurisdiction is appropriate here. The question of whether federal courts have jurisdiction to entertain motions to intervene following a stipulated dismissal has divided federal courts. *Compare In re Brewer*, 863 F.3d 861, 868-69 (D.C. Cir. 2017) (finding no jurisdictional bar to hearing motion to intervene filed after Rule 41(a)(1)(A)(ii) dismissal where class member sought to appeal denial of certification); *with Jou v. Kimberly-Clark Corp.*, 2015 WL 4537533, at *2-*3 (N.D. Cal. July 27, 2015) (holding that court lacked jurisdiction to hear motion to intervene or would-be intervenor's Rule 60(b) motion following stipulated dismissal); *see also State Nat'l Ins. Co. v. City of Camden*, 824 F.3d 399, 407 (3d Cir. 2016) (reasoning that, as a general matter, "[a] voluntary dismissal deprives the District Court of jurisdiction over the action."). And the Court lacks basic information about the probate proceedings, precluding consideration of the

application of the third prong of the probate exception at this juncture. *Cf. Three Keys Ltd. v. SR Util. Holding Co.*, 540 F.3d 220, 227-29 (3d Cir. 2008) (analyzing status and nature of probate proceedings in considering application of third prong of probate exception);

8. WHEREAS, it appears that matters relevant to this case, including the validity of Louise Geer’s trusteeship, are presently being addressed in parallel litigation, namely the Pennsylvania probate action;

9. WHEREAS, the Dille Beneficiaries have brought a motion for relief pursuant to Rule 60(b)—yet in their reply briefing they cite repeatedly to *Herring v. United States*, 424 F.3d 384 (3d Cir. 2005), as the basis for their motion. *Herring* analyzed an independent action for fraud on the court—not a Rule 60(b) motion, *see id.* at 389 (“[W]e must be clear that we are not here reviewing a Rule 60(b) motion.”);

IT IS ORDERED that the Dille Beneficiaries’ Motions (ECF Nos. 193, 200) are **DENIED WITHOUT PREJUDICE**.²

BY THE COURT:

/s/Wendy Beetlestone, J.

WENDY BEETLESTONE, J.

² The Dille Beneficiaries’ assertion that Geer has committed a fraud on the court is of course concerning. However, pursuant to *Herring v. United States*, 424 F.3d 384 (3d Cir. 2005), and its progeny, it appears that the more appropriate vehicle for any future litigation would be an independent action for fraud on the court, *see id.* at 489-90; *see also In re Bressman*, 874 F.3d 142, 149 (3d Cir. 2017) (“Rule 60 has no applicability where . . . a party requests relief from a final judgment in response to an opponent’s alleged fraud on the court. . . . [A]n independent action alleging fraud upon the court is completely distinct from a motion under Rule 60(b).”).

EXHIBIT F

1 Charles M. Coate, Esq., State Bar Number 140404
2 ABRAMS COATE LLP
3 12400 Wilshire Boulevard, Suite 1060
4 Los Angeles, California 900025
5 Tel: (310) 576-6161, Fax: (310) 576-6160
6 Email: ccoate@abramscoate.com
7 Attorneys for Petitioners Robert Flint
8 Dille and Lorraine Dille Williams

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7
8 **FOR THE COUNTY OF LOS ANGELES**

9 In the Matter of:

10 THE DILLE FAMILY TRUST dated
11 August 16, 1979,

12 Lorraine Dille Williams and
13 Robert Flint Dille, as Beneficiaries.

Case No.: 19STPB03164

**EX PARTE PETITION FOR AN
ORDER, OR, ALTERNATIVELY, FOR
ORDER SHORTENING TIME FOR
HEARING ON PETITION FOR ORDER:
(1) CONFIRMING LOUISE A. GEER
WAS NOT PROPERLY APPOINTED AS
TRUSTEE AND HAD NO AUTHORITY
TO ACT AS SUCH;
(2) CONFIRMING THAT THE
BENEFICIARIES REMOVED THE
TRUST ASSETS FEBRUARY 20, 2019;
(3) THAT LOUISE A. GEER SHALL
CEASE PURPORTING TO ACT AS
TRUSTEE;
(4) APPOINTMENT OF LORRAINE
DILLE WILLIAMS AND ROBERT
FLINT DILLE AS CO-TRUSTEES; and
(5) TO COMPEL LOUISE A. GEER TO
IMMEDIATELY SURRENDER ALL
TRUST PROPERTY AND RECORDS TO
LORRAINE DILLE WILLIAMS AND
ROBERT FLINT DILLE; DECL. OF
CHARLES M. COATE
[Probate Code §§ 15642, 17200, 17203]**

Date: April 5, 2019
Time: 8:30 a.m.
Room: 258
Reservation ID:

1
2 Petitioners **ROBERT FLINT DILLE** (aka Robert Nichols Flint Dille) and
3 **LORRAINE DILLE WILLIAMS** (aka Lorraine Virginia Dille) hereby respectfully
4 jointly submit this Ex Parte Petition for an Order (1) confirming that **LOUISE A.**
5 **GEER** was never properly appointed to act as Trustee of the Dille Family Trust dated
6 August 16, 1979 (hereinafter referred to as “Trust” or “DFT”) and had no authority to
7 act as such; (2) confirming the removal of the Trust assets by the beneficiaries on
8 February 20, 2019 and ownership of the Trust assets by the beneficiaries; (3) ordering
9 **LOUISE A. GEER** shall cease purporting to act as Trustee of the DFT as she never
10 had proper authority to act; (4) appointing **LORRAINE DILLE WILLIAMS** and
11 **ROBERT FLINT DILLE** as Co-trustees of the DFT; and (5) that **LOUISE A. GEER**
12 shall immediately surrender all DFT property and records in her possession, custody or
13 control to **LORRAINE DILLE WILLIAMS** and **ROBERT FLINT DILLE**. Special
14 Notice has not been requested.

15 **1. General Purpose:** The general purpose of this Ex Parte Petition is to
16 obtain a court order appointing **LORRAINE DILLE WILLIAMS** (“**LORRAINE**”)
17 and **ROBERT FLINT DILLE** (“**FLINT**”), the sole beneficiaries of the DFT, as Co-
18 trustees of the DFT. **LOUISE A. GEER** improperly acted and exercised authority as
19 Trustee, and assuming *arguendo*, she somehow was a valid trustee of DFT under
20 California law she has committed numerous and ongoing breaches of fiduciary duty by
21 administering DFT assets for her benefit and not for the benefit of the sole beneficiaries
22 **FLINT** and **LORRAINE**. The repeated breaches of fiduciary duty have resulted in a
23 defrauding of the DFT and a waste of its assets.

24 **2. Time is of the Essence in Granting this Petition for Order Appointing**
25 **LORRAINE and FLINT as Co-trustees of the DFT.** This Petition is necessary due
26 to the fact that **LOUISE A. GEER**, a licensed attorney, improperly sought to have the
27 beneficiaries appoint her as Trustee of the DFT in violation of the terms of the DFT and
28 subsequently attempted to misappropriate and sell DFT assets in direct contravention to
the interests, wishes and instructions of DFT's sole beneficiaries.

1 In a later attempt to confirm her inappropriate actions, after an improvidently
2 filed Chapter 11 bankruptcy case authorized by **GEER** on behalf of DFT (without prior
3 notice to both of, or the approval of, **FLINT** and **LORRAINE**) was dismissed with
4 prejudice, **GEER** in her purported capacity as "Trustee, Dille Family Trust"
5 immediately then sued **FLINT** and **LORRAINE**, the sole beneficiaries of DFT, to
6 whom she would have owed fiduciary duties, in Pennsylvania Orphan's Court. **GEER**
7 falsely claimed to the Pennsylvania Orphan's Court that DFT was a "business" trust in a
8 woeful attempt to confirm her actions, even though the U.S. Bankruptcy Court for the
9 Western District of Pennsylvania in a lengthy published decision that same day
10 specifically held that DFT was not a business trust. **GEER** is clearly not acting (and
11 likely never acted) in the best interests of the beneficiaries, engaged in self dealing, and
12 has routinely failed to disclose her ultra vires actions purported on behalf of DFT to the
13 beneficiaries, **FLINT** and **LORRAINE**. **FLINT** and **LORRAINE** must be appointed
14 Co-trustees of the DFT to protect their beneficial interests **before** **GEER** completely
15 wastes the assets of the Trust.

16 **3. The Court Has Authority to Grant this Petition on Shortened Notice.**

17 Generally, Probate Code §17203(a) provides that a hearing on a Petition for
18 Instructions under Probate Code §17200 requires at least thirty (30) days notice of the
19 Petition on all trustees and beneficiaries. However, Probate Code §17203(b) only
20 prohibits shortened notice, on any person, other than a Trustee or beneficiary whose
21 right, title or interest would be affected. Because the only persons entitled to notice in
22 this matter are the beneficiaries **FLINT** and **LORRAINE** and possibly **GEER** (who
23 apparently continues to assert that she is DFT's Trustee), Petitioners respectfully submit
24 that the court has authority to hear this Petition on shortened notice. (See Probate Code
25 §17203(a) and (b)).

26 **4. Standing.** Petitioners, **FLINT** and **LORRAINE**, have standing to
27 Petition this Court for order appointing a Trustee as the sole Beneficiaries of the DFT
28 who are entitled to immediate distribution of assets outright and free of Trust. (See
Probate Code §§15642(a) and 17200(a).)

1 **5. Jurisdiction and Venue.** This Petition concerns the internal affairs of
2 the Trust, a California trust, giving this Court subject matter jurisdiction under
3 California Probate Code §17000. This Court is the proper venue for this matter under
4 Probate Code §17005 because beneficiary, **ROBERT FLINT DILLE** is a resident of
5 Los Angeles California. Further, the Trust, which is governed by California law and
6 California is the Trust situs.

7 **6. Situs of Trust.** On or about February 1, 1989, following the death of
8 **ROBERT**, the beneficiaries, **VIRGINA, LORRAINE, and FLINT** confirmed that the
9 Trust would continue to be governed by California law, but changed the situs of the
10 Trust from California to Illinois. (A copy of the Instrument Transferring Situs of Trust
11 as of February 1, 1989 confirming situs of the Trust in Illinois is attached hereto as
12 **Exhibit " C".**) Thereafter, as of February 20, 2019, pursuant to Section 2.F. of the
13 DFT, the sole surviving beneficiaries, **LORRAINE and FLINT**, petitioners herein,
14 changed the situs of the Trust back to California. (A copy of the unanimous consent of
15 the Beneficiaries as of February 20, 2019 confirming California as the current situs of
16 the Trust is attached hereto as **Exhibit " D".**)

17 **7. California Legal Authority.** This Petition is being brought under the
18 following California authority:

19 **a.** Probate Code §17200(b)(10) authorizes the Court to appoint or
20 remove a Trustee upon petition by a beneficiary.

21 **b.** Probate Code §17200(b)(6) authorizes the Court to instruct the
22 Trustee concerning the internal affairs of the Trust upon petition by a beneficiary;

23 **c.** Probate Code §16002 (a) provides that "the trustee has a duty to
24 administer the trust solely in the interest of the beneficiaries."

25 **d.** Probate Code § 15642 (a) and (b) authorizing the Court to remove
26 a Trustee on Petition by a beneficiary for the following reasons:

- 27 (1) Where the Trustee has committed a breach of trust;
28 (2) Where the Trustee fails or declines to act;
 (3) For good cause.

1 e. Probate Code §15642 (e) authorizes the court to remove a Trustee
2 where it appears that Trust property or the interests of a beneficiary may suffer loss or
3 injury pending a decision on a petition for removal of a Trustee and compel the Trustee
4 to surrender Trust property to a temporary trustee.

5 f. Probate Code §15642(c) authorizes the Court to order the Trustee
6 whose removal is sought to surrender Trust property.

7 **SUMMARY OF FACTS**

8 **The Dille Family Trust dated August 16, 1979**

9 **8. Family Information. ROBERT C. DILLE (“ROBERT”) and**
10 **VIRGINIA N. DILLE (“VIRGINIA”)** executed the Dille Family Trust on August 16,
11 1979 in Monterey, California.¹ The Trust was amended on January 5, 1982. (A true
12 and correct copy of the Dille Family Trust is attached hereto as **Exhibit “A”**. A true
13 and correct copy of the January 5, 1982 Amendment is attached hereto as **Exhibit “B”**.)
14 **ROBERT** passed away on March 30, 1983. **VIRGINIA** passed away on February 17,
15 2009. **ROBERT** and **VIRGINIA** had two children, petitioners herein, namely
16 **LORRAINE DILLE WILLIAMS (“LORRAINE”)**, born January 19, 1949 and
17 **ROBERT FLINT DILLE (“FLINT”)**, born November 3, 1955.

18 **9. Trust Assets.** Upon execution of the Trust and under the terms of the
19 Trust, **ROBERT** and **LORRAINE** assigned all their property to the Trust. A primary
20 asset of the Trust consisted of intellectual property rights including various “Buck
21 Rogers” works. In this regard, on or about September 24, 1982, **ROBERT** executed an
22 Assignment of Copyrights, which assignment was recorded with the U.S. Copyright
23 Office on October 6, 1982, assigning all copyrights owned by him to Robert C. Dille
24 and Virginia N. Dille, or their successors, as Trustees of the Dille Family Trust under
25 agreement dated August 16, 1979, including 25 enumerated “Buck Rogers” works and
26 copyright renewal and extension rights to each. (A true and correct copy of such
27 Assignment of Copyright is attached hereto as **Exhibit “E”**).

28 _____
¹ In order to avoid confusion, family members are referred to by first name.

1 **9. Trustee Succession.** The Trust originally provided that the Settlers,
2 **ROBERT** and **VIRGINIA** shall act as Co-trustees. Upon the death of either Settlor,
3 the amendment dated January 5, 1982 provided that Surviving Settlor was to act as sole
4 Trustee of the Marital Trust and the Surviving Settlor and the Settlers' friend and
5 attorney **ARTHUR MARTIN** ("ARTHUR") were to act as Co-trustees of the Residual
6 Trust. In the event that **ARTHUR** was unable to act, then the Settlers' attorney
7 **DENNIS W. FOX** ("DENNIS") was to act as Co-trustee with the Surviving Settlor. If
8 the Co-trustees were unable to act then **AMERICAN GUARANTY & TRUST**
9 **COMPANY** would become Co-trustee with the Surviving Settlor. In the event that the
10 Surviving Settlor ceased to act for any reason, then the Co-trustees listed above, in the
11 order listed, would act as sole trustee. (See Trust Amendment attached hereto as
12 **Exhibit "B"** at Section 2.C.) The Trust provided that in the event that there is a
13 vacancy in the office of the Trustee, then "a majority of the beneficiaries shall appoint a
14 successor corporate trustee by an instrument in writing . . .". (See **Exhibit "A"**, DFT
15 at Section 3.C., page 6 (emphasis added).). The Trust had no provision for appointment
16 of an individual Trustee.

17 **10. Trust Distribution Provisions on First Spouse's Death.** Upon the
18 death of the first spouse, the Trust assets were to be divided into two Trusts, Marital
19 Trust and the Residual Trust. The Marital Trust was to consist of the Surviving
20 Spouse's separate property and the Surviving Spouse's ½ of the community property.
21 The Residual Trust was to consist of the Deceased Spouse's separate property and ½ of
22 the community property. (See **Exhibit "B"** - Trust Amendment at paragraph 5, pages
23 2-3.)

24 **11. Distribution Provisions Following the Second Spouse's Death.**
25 Following the Surviving Spouse's death, the Surviving Spouse had a general power of
26 appointment over the assets of the Marital Trust. To the extent that the Surviving
27 Spouse failed to exercise the power of appointment, then the assets of the Marital and
28 Residual Trusts were to be distributed as follows: (1) all tangible personal property was
to be distributed to the Settlers' children outright and free of Trust; (2) the remainder of

1 the Trust property was to be divided into equal shares for the Settlor's children and held
2 in Trust for such child. The Trust provided that the net income of each child's share be
3 paid outright and free of Trust to the child. (See Exhibit "A" – DFT at §6.L, page 24.)
4 Between the age of 21 and 25, each child had the authority to withdraw up to 1/4 of the
5 Trust principal. Between the age of 25 and 30, each child had the authority to withdraw
6 up to 1/2 of the Trust principal. Between the age of 30 and 35, each child had the
7 authority to withdraw up to 3/4 of the Trust principal. After age 35, each child had the
8 authority to withdraw their entire Trust share. (See Exhibit "A" – Trust Agreement at
9 Section 6.L., pages 23-24.) Petitioners are age 70 and 63 therefore and have the
10 authority to withdraw their entire Trust shares respectively.

11 **12. Actions Taken Following First Spouse's Death.**

12 a. **Trustees.** Following ROBERT'S death, VIRGINIA and
13 ARTHUR MARTIN acted as Co-trustees of DFT.

14 b. **Trust Situs.** On or about February 1, 1989, following the death of
15 ROBERT, the beneficiaries, VIRGINIA, LORRAINE, and FLINT confirmed that the
16 Trust would continue to be governed by California law, but changed the situs of the
17 Trust to Illinois. (See Instrument Transferring Situs of Trust dated February 1, 1989
18 attached hereto as Exhibit "C").

19 c. **No-Division of Trust Assets.** Following the death of the first
20 spouse, no Trust administration occurred and there was no division of Trust assets.

21 d. **Assets used for Benefit of the Surviving Settlor.** During the
22 Surviving Settlor's lifetime, the assets were used for the benefit of the Surviving
23 Settlor.

24 **13. Actions Taken Following Surviving Spouse's Death.**

25 a. **Trustee Status.** Following the Surviving Settlor's death in 2009,
26 the Settlor's friend and attorney ARTHUR MARTIN ("ARTHUR"), became sole
27 successor Trustee. In 2011, LORRAINE and FLINT sought counsel from LOUISE A.
28 GEER ("GEER"), an out of state attorney regarding the DFT. GEER and her husband
DAN HERMAN are law partners in the law firm of GEER and Herman P.C. located

1 in Pennsylvania. **GEER** and **HERMAN** reviewed the **DFT** and advised **LORRAINE**
2 and **FLINT** that they had the power to appoint successor Trustees by executing an
3 “Appointment of Successor Trustee.” Thereafter, **GEER** prepared a document entitled
4 “DILLE FAMILY TRUST: APPOINTMENT OF SUCCESSOR TRUSTEE” which
5 provided that the designated successor trustees had resigned or declined to act and
6 inappropriately alleged that the beneficiaries had the power to appoint a successor
7 trustee under paragraph 6.L of the DFT² and thereby "appointed" **LOUISE A. GEER**
8 as successor trustee. Upon the advice of **GEER'S** counsel, **LORRAINE** and **FLINT**
9 executed the Appointment of Successor Trustee on or about June 6, 2011, which inured
10 to the benefit of **GEER** and her husband **HERMAN**. (A true and correct copy of the
11 executed Dille Family Trust: Appointment of Successor Trustee is attached hereto as
12 **Exhibit “K”**).

13 **b. Notice of Removal.** Due to **GEER’S** failure to act in the best
14 interests of the beneficiaries’ (as discussed in detail below) on August 26, 2018, the
15 beneficiaries **LORRAINE** and **FLINT** each gave written notice to **GEER** that she was
16 (unanimously) removed as Trustee of the DFT. (See notice dated August 26, 2018
17 attached hereto as **Exhibit “F”**). Despite the written notice and removal, **GEER**
18 continued to purport to act as Trustee on behalf of the DFT without the beneficiaries’
19 authority. Therefore, on February 22, 2019 the beneficiaries confirmed in writing again
20 that **GEER** was unanimously removed as Trustee of the DFT and on February 25, 2019
21 the beneficiaries held a telephonic DFT status meeting with **GEER** and moved by
22 resolution to again unanimously confirm removal of **GEER** as Trustee of the DFT.
23 (See "Minutes" of Telephonic meeting dated February 25, 2019 attached hereto as
24 **Exhibit “G”**). In response to her unanimous removal as trustee of the DFT, **GEER** has
25 responded in pertinent part to Petitioners “Be advised that I will not resign as Trustee of
26

27 _____
28 ² Paragraph 6.L of the DFT is actually the distribution provision and does not give the beneficiaries the power to
appoint a successor Trustee. The beneficiaries only had the power to appoint a successor corporate Trustee under
Section 3.C. of the DFT. **GEER** who held herself out as an experienced trusts and estates attorney should have
advised the beneficiaries of the proper way to appoint a successor Trustee.

1 the Dille Family Trust”. (Attached hereto as **Exhibit "H"** is a true and correct copy of
2 a letter from **GEER** dated February 25, 2019).

3 **c. Removal of Trust Property by the Beneficiaries.**

4 Notwithstanding that **GEER** was without authority, let alone to act improperly and
5 waste the assets of the Trust, the beneficiaries acted to remove the Trust property as
6 authorized by the Trust. As of February 20, 2019 the sole beneficiaries of the DFT,
7 **LORRAINE** and **FLINT** both over the age of thirty-five (35), exercised their rights
8 under Section 6.L. of the DFT and removed 100% of their respective shares in the Trust
9 (50% each) so that **GEER** could not further damage the assets of the Trust. (See
10 notices dated as of February 20, 2019 attached hereto as **Exhibit "I"**). Therefore any
11 purported sale of Trust assets would be invalid as the Trust no longer had any interest in
12 the assets.

13 **LORRAINE** and **FLINT** are informed and believe that they may have
14 potential claims as the sole beneficiaries of **DFT** as a result of the professional
15 negligence, breach of fiduciary duties, fraud and constructive fraud exhibited by **GEER**
16 and her husband **HERMAN** to the extent that they purported to provide legal services
17 on their behalf and on behalf of the Trust. **LORRAINE** and **FLINT** reserve their
18 respective rights to seek redress against **GEER** and **HERMAN**.

19 **d. Trust Disputes.** The main assets of the **DFT** are intellectual
20 property rights relative to a fictional character known as the 25th century explorer,
21 “Buck Rogers” (hereinafter referred to as “IP Rights”). The historic science fiction
22 character was originally created in the 1920’s.

23 **(1) Dispute with the Nowlan Family.** There was a dispute as to who
24 held the IP Rights, the estate of Phillip Francis Nowlan or John F. Dille. The dispute
25 regarding the IP Rights was resolved in 1942 when Mr. Nowlan’s estate released and
26 assigned the IP Rights to John F. Dille. Thereafter, the rights were passed down
27 through the Dille Family and ultimately conveyed to the DFT. In 2008, the Nowlan
28 Family Trust filed an application with the U.S. Patent & Trademark Office seeking
registration of the “Buck Rogers” mark. The DFT opposed the application, which

1 opposition was overruled in 2015. The DFT then filed suit against the Nowlan Family
2 Trust in the Eastern District of Pennsylvania to overturn the decision. This suit
3 progressed to the point that trial was scheduled to begin on February 5, 2018.

4 Recently, **GEER** has purported to authorize a settlement with the Nowlan
5 Family Trust in the Eastern District of Pennsylvania litigation on or about February 28,
6 2019 in which **GEER** has purported to exchange without the knowledge, notice and/or
7 the approval of the beneficiaries (who had already demanded distribution and
8 ownership of such IP Rights under the Trust) DFT's trademark rights in "Buck Rogers"
9 to the Nowlan Family Trust for \$300,000. Such settlement allegedly took place after
10 the beneficiaries' February 20, 2019 exercised their rights under Section 6.L. of the
11 DFT and removed 100% of their interests in the Trust (50% each) in documents dated
12 as of February 20, 2019 so that **GEER** could not further damage the assets of the Trust.
13 Therefore, **GEER'S** action was improper, invalid, without authority and directly
14 contrary to the interests of the sole beneficiaries **LORRAINE** and **FLINT** and/or a
15 breach of her fiduciary duty to the beneficiaries.

16 (2) **Dispute with Team Angry Filmworks, Inc.** In August 2015
17 Team Angry Filmworks, Inc., a film production company filed suit in the Central
18 District of California against **GEER**, as Trustee of the DFT claiming that "Buck
19 Rogers" entered the public domain in the United States in 1956 and that the marks
20 entered the public domain worldwide in 2010. The lawsuit was prompted by Team
21 Angry Filmworks, Inc.'s receipt of various threats and/or demands by counsel for DFT,
22 Mr. Daniel Herman (who is also the spouse of the purported trustee of the DFT,
23 **GEER**.) This litigation was ultimately transferred to U.S. District Court for the Western
24 District of Pennsylvania. This litigation progressed past the pleadings stage and entered
25 well into the discovery phase, but before **GEER** was to substantively respond to
26 discovery, notification that a Chapter 11 bankruptcy proceeding by DFT was filed. The
27 filing of the bankruptcy case resulted in a dismissal without prejudice of the case by the
28 U.S. District Court for the Western District of Pennsylvania.

1 (3) **GEER files for Bankruptcy on Behalf of DFT.** With trial and
2 discovery obligations approaching, **GEER** purportedly found herself without adequate
3 funds to fund the litigation. She had borrowed money from one beneficiary,
4 **LORRAINE**, to fund litigation, but **LORRAINE** had lost confidence that **GEER** was
5 appropriately protecting the IP Rights owned by the family trust and which had been in
6 the family since the 1920's. Therefore, **LORRAINE** stopped funding the litigation.
7 Thereafter, on or about November 28, 2017 **GEER as its purported Trustee** filed a
8 voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code on
9 behalf of DFT, without any prior notice to either of its sole beneficiaries and falsely
10 asserting that DFT was a "business trust." **GEER** was well aware that DFT was an
11 estate planning vehicle created pursuant to the California Probate Code to preserve
12 assets for the family beneficiaries. **GEER'S** improper behavior continued well into
13 Bankruptcy court proceedings. Upon filing of the bankruptcy, **GEER repeatedly**
14 sought to engage an auctioneer to sell the IP Rights "free and clear" of competing
15 interest, despite the knowledge that the beneficiaries disapproved of such auction plan.
16 This was opposed by both Team Angry Filmworks, Inc. and the Nowlan Family Trust
17 who also claimed rights to utilize the IP. Team Angry Filmworks, Inc. moved to
18 dismiss the bankruptcy case as a "bad faith" filing contending that the DFT could not
19 file a petition under Chapter 11 because it had (1) no meaningful business operations
20 (i.e. it was not a "Business Trust") and because the bankruptcy filing was merely a
21 litigation tactic designed to avoid the non-bankruptcy lawsuits.

22 The bankruptcy court made specific findings based on clear and
23 convincing evidence that **GEER** acted inappropriately, specifically, the bankruptcy
24 court found that (1) **GEER** invoked the automatic stay for the primary purpose of
25 avoiding trial regarding ownership interest in the IP rights; (2) improperly sought to
26 pursue "free and clear" sale of the IP Rights despite the outstanding claims; and (3) had
27 consulted and utilized the services of her husband in the bankruptcy matter who had not
28 been retained by the Court, and who may have had a conflict of interest as his firm is an
alleged pre-petition creditor of his spouse both an alleged trustee of the DFT and an

1 owner of a related entity that is alleged to have entered into a licensing agreement with
2 the DFT. The court further acknowledged that **GEER** as Trustee of the DFT did not
3 give notice to the beneficiaries of DFT of the bankruptcy. Income was observed coming
4 in to DFT according to tax returns but not shared with beneficiaries. The Bankruptcy
5 Court ultimately dismissed the bankruptcy with prejudice because the DFT was not a
6 “Business Trust” and therefore was ineligible to be a “debtor” in bankruptcy. (See
7 *Murphy v. Bernstein (In re Dille Family Trust*, U.S. Bankruptcy Court for the Western
8 District of Pennsylvania, 2019 Bankr. LEXIS 478, at p. 20 of 24: "These provisions
9 militate against a finding that the trust is a business trust. As a result this bankruptcy
10 case must be dismissed for want of debtor eligibility.")

11 (4) **GEER and HERMAN Attempt to Sell IP Rights, Retaining**
12 **Executive Producer Status - Disclosed During Bankruptcy.** During the course of the
13 now dismissed Bankruptcy, it came to the attention of the DFT beneficiaries
14 (**LORRAINE** and **FLINT**) that **GEER** had entered into a deal memo with IM Global
15 Television, LLC providing executive producer fees and credits related to the IP Rights
16 to be designated by DFT through **GEER** as Trustee. Neither **LORRAINE** nor **FLINT**
17 were specifically identified as executive producers in the deal memo. Rather, the deal
18 memo exposes **GEER’S** underhanded plan was to have **GEER** and her husband
19 **HERMAN** reap fees and credits for “Executive Producer Services” which were to be
20 paid to “the Trustee of the Dille Family Trust” as an Executive Producer. (See **Exhibit**
21 **“J”** pp 9 §7(c) and 11 §9(c). Clearly such a transaction should have been disclosed to
22 both **LORRAINE** and **FLINT** as the sole beneficiaries of the DFT entitled to all the
23 income and principal of the Trust.

24 (5) **GEER Fails to Account or Provide Reports to the Beneficiaries.** The DFT
25 provides at Section 3.J. that “The trustee **shall** render reports at least **annually** to the
26 settlors and to each **beneficiary** The records of the trustee shall be open at all
27 reasonable times to such inspections. . . .” Assuming *arguendo* that **GEER** was ever
28 Trustee she violated the specific terms of the Trust by failing to report annually (or
virtually at all) and or to permit inspection by the beneficiaries as required by the Trust.

1 Further, **GEER** later utterly failed to comply with discovery orders from the bankruptcy
2 court. Furthermore, **FLINT** as a 50% beneficiary has made a number of requests for
3 accountings and reports prior to the Bankruptcy, but **GEER** failed to produce such
4 reports as any Trustee would be required to do in violation of the terms of the Trust.

5 **(6) GEER in Her Purported Capacity as Trustee of the DFT Brings Suit**
6 **Against the Sole Beneficiaries of the Trust.** Despite the stated purpose of the Trust to
7 provide for trust beneficiaries and despite the fact that pursuant to the California
8 Probate Code the Trustee owes a fiduciary duty to the sole beneficiaries of the Trust, on
9 or about February 21, 2019, **GEER** putatively as a purported "Trustee" brought suit in
10 the Court of Common Pleas of Lawrence County, Pennsylvania, Orphans Court
11 Division against **LORRAINE** and **FLINT**, the sole beneficiaries of the Trust. **GEER**
12 sought Declaratory Judgment stating that **LORRAINE** and **FLINT** have sought "to
13 undermine the intellectual property and assets of the Trust." Taking such a position
14 would be a clear breach of fiduciary duty by any trustee under the Probate Code §16002
15 (a) provides that "the trustee has a duty to administer the trust solely in the interest of
16 the beneficiaries." Further, as **LORRAINE** and **FLINT** collectively are entitled to
17 100% ownership of the Trust assets, including the intellectual property assets of the
18 Trust and they had previously exercised their respective rights to claim their respective
19 interests in the assets of the Trust. The Pennsylvania case has been removed to U.S.
20 District Court for the Western District of Pennsylvania, Case No. 2:190cv-274-MRH.
21 **LORRAINE** and **FLINT** have been forced to retain counsel to defend themselves
22 against the purported "Trustee's" lawsuit who purports to be their fiduciary and they
23 have filed a motion to dismiss for lack of jurisdiction and venue which has yet to be
24 heard.

25 **14. Assets of Trust According To Geer.** Petitioners have been unable to
26 obtain an accounting from the purported Trustee, **GEER**. However, in **GEER'S** suit
27 against the beneficiaries (identified in paragraph 13(c) (6) above, **GEER** states that the
28 assets of the Trust include cash in the amount of \$1,472.88, furniture in the amount of
\$525.00, "Inventory" in the amount of \$18,500 and Intellectual Property Rights in the

1 amount of \$1,200,000. However, it is further evidence that **GEER** has and is not acting
2 in the best interests of the sole beneficiaries of DFT **LORRAINE** and **FLINT** as she
3 has asserted that the IP Rights are worth \$1,200,000 while attempting to secretly
4 exchange such rights with the Nowlan Family Trust in exchange for \$300,000.

5 **LEGAL AUTHORITY**

6 **15. The Court has Authority to Confirm that Louise A. Geer Was Not a**
7 **Trustee of DFT, And Therefore Had No Authority Whatsoever to Sell the Shares**
8 **of DFT.**

9 a. Probate Code §17200(b)(10) authorizes the Court to appoint or
10 remove a Trustee upon petition by a beneficiary;

11 b. Probate Code §17200(b)(6) authorizes the Court to instruct the
12 Trustee concerning the internal affairs of the Trust upon petition by a beneficiary.

13 c. Probate Code §§17200 and 15642 authorizes the Court to remove a
14 trustee on petition of a beneficiary and authorizes the Court to appoint a trustee upon
15 petition by a beneficiary upon the following grounds: (1) where the trustee has
16 committed a breach of trust; (2) where the trustee is unfit to administer the trust; (3)
17 where the trustee fails or declines to act; (4) for good cause; and (5) it appears to the
18 court that trust property or interest of a beneficiary may suffer loss or injury pending
19 decision on a petition for removal of a trustee.

20 Here, the Trust provided that in the event that there is a vacancy in the office of
21 the Trustee, then “a majority of the beneficiaries shall appoint a successor **corporate**
22 **trustee** by an instrument in writing . . .”. (See **Exhibit “A”**, DFT at Section 3.C., page
23 6 (emphasis added)). The Trust had no provision for appointment of an individual
24 Trustee, such as **GEER**, and therefore the sole beneficiaries of DFT **LORRAINE** and
25 **FLINT** unanimously request instruction and an order from the Court that confirming
26 that **GEER** whom was acting in her own self interest was never properly appointed to
27 act as Trustee of DFT, and that the "Appointment of Successor Trustee" attached hereto
28 as **Exhibit “E”**) dated June 6, 2011 was invalid. Correspondingly, from and after
August 26, 2018, the sole beneficiaries of DFT **LORRAINE** and **FLINT** unanimously

1 request instruction and an order from the Court that confirming that **GEER** has not
2 under any circumstances been authorized to act as Trustee of the DFT since August 26,
3 2018, when the beneficiaries notified her that she was acting contrary to their wishes.
4 Further, as of February 20, 2019 the sole beneficiaries of the DFT, **LORRAINE** and
5 **FLINT** both over the age of thirty-five (35), duly exercised their rights under Section
6 6.L. of the DFT and removed 100% of their interests in the Trust (50% each) in
7 documents dated as of February 20, 2019 so that **GEER** was precluded from and could
8 not further damage the assets of the Trust. (See notices dated as of February 20, 2019
9 attached hereto as **Exhibit “I”**). Therefore, the purported exchange of Trust assets
10 with the Nowlan Family Trust on or about February 28, 2019 is invalid as the Trust no
11 longer had any ownership interest in the assets.

12 The sole beneficiaries of DFT **LORRAINE** and **FLINT** unanimously further
13 request instruction and an order from the Court that confirming that **GEER** whom was
14 acting in her own self interest shall immediately cease and desist from purporting to act
15 as Trustee of DFT *vis a vis* **LORRAINE** and **FLINT** and third parties; and if for any
16 reason the Court finds that **GEER** was Trustee of DFT or armed with the authority of
17 Trustee of DFT at any time, that **GEER** be removed as Trustee *ab initio* from June 6,
18 2011, but no later than August 26, 2018.

19 Here, the number of times the putative Trustee **GEER** has breached the TRUST
20 are numerous as discussed above in the statement of facts. In addition to failing to
21 protect the interests of the beneficiaries in the Trust and its intellectual property rights
22 and in failing to report and account to the beneficiaries annually as required, **GEER** has
23 brazenly brought suit against the beneficiaries and attempted to sell their assets out
24 from under them. As such, **GEER** if ever she was a Trustee of DFT, has breached her
25 fiduciary duty to the beneficiaries and must be removed so that the beneficiaries may
26 protect their beneficial interests, attend hearings and respond on behalf of the Trust. The
27 beneficiaries have lost complete confidence in **GEER**, especially in light of the fact,
28 that **GEER** has brought suit against the beneficiaries.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, FLINT DILLE, am a Co-Petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own personal knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed in Los Angeles, California.

Date: April 3, 2019

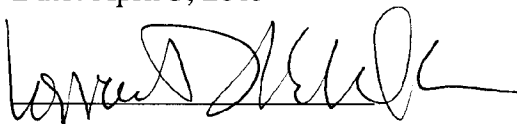
FLINT DILLE

VERIFICATION

I, LORRAINE DILLE WILLIAMS, am a Co-Petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own personal knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed in Washington DC.

Date: April 3, 2019


LORRAINE DILLE WILLIAMS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VERIFICATION

I, FLINT DILLE, am a Co-Petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own personal knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed in Los Angeles, California.

Date: April 3, 2019



FLINT DILLE

VERIFICATION

I, LORRAINE DILLE WILLIAMS, am a Co-Petitioner in the above-entitled proceeding. I have read the foregoing petition and know the contents thereof. The same is true of my own personal knowledge, except as to those matters which are therein stated on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed in _____

Date: April 3, 2019

LORRAINE DILLE WILLIAMS

1 Dille in Room 258 of the Los Angeles County Superior Court, located at 111 N. Hill St.,
2 Los Angeles, CA 90012.

3 5. As of the signing of this declaration, I have not received any response to the
4 *ex parte* notice and I am unaware whether the application will be opposed or whether Ms.
5 Geer or counsel on her behalf intends to appear at the *ex parte* hearing.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct and that this declaration was executed on this 4th day of
8 April, 2019, at Los Angeles, California.

9 _____/S/_____
10 CHARLES M. COATE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT G

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Probate Division

Stanley Mosk Dept. - 9, Stanley Mosk Dept. - 9

19STPB03164

In re: The Dille Family Trust Dated August 16, 1979

July 11, 2019

1:30 PM

Honorable Clifford Klein, Judge

Connie Hudson, Judicial Assistant
Terrilynn Edwards, Court Services
Assistant

Joan Whipple (#5336), Court Reporter

NATURE OF PROCEEDINGS: Ruling on Submitted Matter Re: Motion to Dismiss for Lack of Jurisdiction and Improper Venue

The following parties are present for the aforementioned proceeding:

No appearances.

Out of the presence of the court reporter, the Court makes the following findings and orders:

The Court having taken the above captioned matter under submission on Thursday, May 23, 2019 hereby rules as follows:

The motion to dismiss for lack of jurisdiction and improper venue filed by Specially-Appearing Respondent Louise A. Greer on May 10, 2019 was argued before this Court on May 23, 2019. Petitioners Lorraine Dille Williams and Robert Flint Dille filed an Opposition to the Motion.

The Court finds that it lacks jurisdiction to consider the Petition. Trustee Louise Greer is not properly subject to the jurisdiction of a California court. The motion is granted. The "Ex Parte Petition for an Order, or Alternatively, for an Order Shortening Time for Hearing on Petition for Order" filed by Petitioners Lorraine Dille Williams and Robert Flint Dille on April 4, 2019, is dismissed.

The Dille Family Trust was created in 1979, and amended in 1982. The trust document provides that the trust should be governed by California law. However, in 1989, thirty years ago, the co-trustees agreed to transfer the situs of the trust to Illinois. The Petitioners are beneficiaries of the trust. After the death of former co-trustees and the resignation of the remaining trustee Arthur Martin in 2011, the named corporate successor trustees declined to serve. The petitioner then sought out Respondent Greer and both of them asked her to serve as trustee. No one objected. Although they now complain they did not have their own lawyer, they did not request independent counsel, as Ms. Greer is an attorney.

Petitioners now assert her appointment as trustee was invalid. Nevertheless, since June 2011, Ms. Greer has been acting as trustee. For at least seven to eight years, the petitioners never objected to her appointment or claimed that it was unlawful. The petitioners could not cite any provision in the trust requiring court approval for her appointment. As noted in her declaration, Ms. Greer has lived in the state of Pennsylvania for 40 years. She accordingly conducted relevant trust business in Pennsylvania, whether it be her office, trust bank accounts, business records, etc. and filed tax returns in that state. She does not maintain any property or offices in

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Probate Division

Stanley Mosk Dept. - 9, Stanley Mosk Dept. - 9

19STPB03164

In re: The Dille Family Trust Dated August 16, 1979

July 11, 2019

1:30 PM

California, although she has in her professional capacity as an entertainment attorney conducted business with various people in this state. The Trust has no assets or accounts located in California. None of the acts giving rise to the underlying Petition took place in California.

The current action by Petitions stems from various recent disputes regarding intellectual property rights historically held by the trust, specifically over “Buck Rogers”, and attempts by Petitioner beneficiaries to transfer those rights to third parties. Related disputes and resulting cases between Trustee Greer and the Petitioners lead to litigation in Pennsylvania state courts and in the federal court for the Western District of Pennsylvania. It should be noted that a federal case involving film rights was originally filed in the Central District in California, but the federal judge transferred the case to Pennsylvania.

This Court does not have a basis to exercise personal jurisdiction over Louise Greer and remove her as trustee. The recognized bases on which a court may exercise personal jurisdiction consistent with due process include physical presence in the forum state when served with summons, domicile in the forum state, general appearance in the action, contractual consent, or minimum contacts. None of those factors are here satisfied. The Court also does not have specific jurisdiction over Ms. Greer. Such jurisdiction requires “minimum contacts” such that exercising jurisdiction “comports with traditional notions of fair play and substantial justice.” *Int’l Shoe v. Washington*, 326 U.S. 310, 316. Here, Ms. Greer has basically no contacts with this state. It is true that she has on occasion visited the state and has had clients here. Such incidental contacts, however, are not sufficient for it to be fair to engage in unrelated trust litigation here. The Court therefore finds that exercising jurisdiction over her would be unreasonable.

Petitioners argue that Greer submitted to the jurisdiction of the courts of this State by agreeing to serve as trustee. See Probate Code S 17003. “By accepting trusteeship of a trust having its principal place of administration in this state, the trustee submits personally to the jurisdiction of the court. . .” Here, however, the principal place of administration of the trust has not been in California since long before Greer accepted the trusteeship. Probate Code section 17002 states the principal place of administration is the “usual place where the day-to-day activity of the trust is carried on by the trustee...” The evidence demonstrated all these activities took place in Pennsylvania. It is also the trustee’s residence and usual place of business, also factors set forth in section 17002. The Probate Code provides no basis for an exercise of jurisdiction. Other than one of the beneficiaries living in California, there were no other facts listed in section 17002 that could be cited by the petitioner.

Petitioners also argue that the Court has jurisdiction over the Dille Family Trust, regardless of personal jurisdiction over Greer, because the trust document selects California law as its governing law and because section 17200 of the California Probate Code grants the Court jurisdiction over proceedings concerning the internal affairs of a trust. These arguments are insufficient. Not all agreements which apply California law are subject to the jurisdiction of the courts of this state. Here, where the trust has no substantive connection with this state, there is no jurisdiction, even if it applies California law. Similarly, section 17200 specifies that the Court may have subject matter jurisdiction over the internal affairs of a trust, as well as over the trust’s actions as they affect the wider world. This is only true, however, whether the Court has jurisdiction over the trust in the first place. Here, it does not.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Probate Division

Stanley Mosk Dept. - 9, Stanley Mosk Dept. - 9

19STPB03164

In re: The Dille Family Trust Dated August 16, 1979

July 11, 2019

1:30 PM

“First, when jurisdiction is challenged by a nonresident defendant, the burden of proof is upon the plaintiff to demonstrate that "minimum contacts" exist between defendant and the forum state to justify imposition of personal jurisdiction.” (Shearer v. Superior Court (1977) 70 Cal. App.3d 424, 430 [138 Cal. Rptr. 824].)

“The general rule is that the forum state may not exercise jurisdiction over a nonresident unless his relationship to the state is such as to make the exercise of such jurisdiction reasonable.” (Mihlon V. Superior Court (1985) 169 Cal.App.3d 703)

The Petitioner has failed to satisfy the burden of proof to demonstrate these required minimum contacts, and in view of the administration of the trust in Pennsylvania, that California jurisdiction would be reasonable. Because the Court lacks jurisdiction, the motion is granted and the Ex Parte Petition dismissed with prejudice.

The Court orders the Clerk to give notice.

**CLERK’S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER**

I, SHERRI R. CARTER, Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Entry of the above minute order of July 11, 2019 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: July 11, 2019

By: /s/ Connie Hudson

Connie Hudson, Deputy Clerk

Charles Michael Coate
12400 Wilshire Blvd. Ste 1060
Los Angeles, CA 90025

Neil Craig Erickson
1900 Ave Of The Stars, 7FL
Los Angeles, CA 90067