

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



In the Matter of

**GEMTRONICS, INC.,
a corporation, and**

**WILLIAM H. ISELY,
individually and as the owner
of Gemtronics, Inc.**

PUBLIC

DOCKET NO. 9330

**COMPLAINT COUNSEL'S MEMORANDUM IN OPPOSITION
TO RESPONDENTS' MOTION FOR SUMMARY DECISION**

Complaint Counsel opposes Respondents' Motion for Summary Decision ("Respondents' Motion"). For the reasons set forth below, Complaint Counsel respectfully requests that Respondents' Motion be denied.

I. Introduction

In their Motion for Summary Decision, Respondents Gemtronics, Inc. and William H. Isely ("Respondents") seek to have this Court dismiss the complaint issued by the Federal Trade Commission ("FTC" or "Commission") despite the overwhelming evidence that Respondents violated Sections 5(a) and 12 of the Federal Trade Commission Act ("FTC Act") by making false and unsubstantiated advertising claims through the Internet website www.agaricus.net that the herbal product, RAAX11, is effective in preventing, treating, or curing various types of cancer and that these claims are proven by reliable scientific evidence.

Respondents' apparent sole claim in their Motion for Summary Decision for the dismissal of the Commission's complaint is:

Respondents were not the owners of the alleged offending website and likewise had no ability to control the content of any advertisement or any other information disseminated through the alleged offending website.¹

Respondents do not challenge either the content or interpretation of the advertisements at issue in the Commission's complaint,² but refuse any liability for the dissemination of the contested advertising claims for RAAX11 by denying their association with the website www.agaricus.net. However, Respondents' Motion fails to state that Respondents participated in the challenged acts and practices as part of a lucrative scheme to defraud sick and vulnerable consumers and that, during the four years they sold RAAX11, Respondents' sales were estimated between \$115,000 and \$136,000.³ Further, contrary to their assertions, and as evidenced by their actions, Respondents had the ability to control the website to the extent that the challenged claims ceased after Respondents received two notices of potential law violations from the FTC and the Food and Drug Administration ("FDA").

Complaint Counsel will, herein, address the issues raised by Respondents' Motion namely: (1) Respondents' liability for FTC Act violations by virtue of their participation in and/or control over the acts and practices challenged in the Commission's complaint;⁴

¹ Respondents' Motion, p. 2.

² Respondents' Motion, p. 4; Answer to Complaint ¶5. Sections II.B., and III of the Memorandum in Support of Complaint Counsel's Motion for Summary Decision ("Complaint Counsel's Motion") provide a detailed discussion of the deceptive advertising claims and the lack of scientific evidence to support the claims.

³ Respondent Isely's Answers to Interrogatories No. 5, appended to Complaint Counsel's Motion as Exhibit ("Ex.") 1.

⁴ Sections II.A. and V. of the Memorandum in Support of Complaint Counsel's Motion, respectively, discuss in detail Respondents' business and the separate standards for liability for the Corporate Respondent Gemtronics as well as the individual liability of Respondent Isely as the owner of the corporation and

(2) Respondents' repeated and misplaced citation to the Deposition of Pablo Velasco, a customer service supervisor for Tierra.net, to support Respondents' Motion; and (3) Respondents' failure to meet the standard for the granting of their Motion for Summary Decision.

Thus, Complaint Counsel respectfully requests that Respondents' Motion for Summary Decision be denied. In addition to seeking denial of Respondents' Motion, Complaint Counsel requests that its Motion for Summary Decision be granted to permanently enjoin Respondents from making any health-related false and/or unsubstantiated claims for RAAX11 or other similar products.

II. Respondents Directly Participated in the Acts in Question

As set forth below, the website www.agaricus.net exclusively advertised Respondents' sale of RAAX11 to consumers in the United States. Since at least April or May 2004 and continuing through 2008, the website www.agaricus.net advertised to consumers in the United States that they could purchase RAAX11 by calling telephone numbers belonging to Respondent Isely and/or through credit card payments made directly to Gemtronics on this website.⁵ Respondent Isely admitted in his deposition that consumers could purchase RAAX11 from Gemtronics through credit card payments made on the website www.agaricus.net.⁶ During this time, Respondents were apparently the sole outlet on the website www.agaricus.net in the United

doing business under the assumed name "Gemtronics." For brevity's sake, this memorandum will address Respondents' liability collectively in terms of their participation and/or control in the challenged practices.

⁵ Supplemental Declaration of Michael S. Liggins ("Liggins Supp. Dec.") ¶ 5, Attachment ("Att.") M, appended hereto as Ex. 6; Deposition of William Isely ("Isely Dep.") pp. 120, 123 -24, appended to Memorandum in Support of Complaint Counsel's Motion as Ex. 3; Complaint Counsel's Statement of Material Facts ("CCSF") ¶¶ 7 - 10.

⁶ Isely Dep. pp. 120 (Respondents' Ex. 6 to the deposition), 123 -24.

States for sales of RAAX11.⁷ Thus, no other company or individual in the United States, other than Respondents, stood to benefit from the claims on the website www.agaricus.net for RAAX11.

The apparent participation of Respondents in the website was further evidenced when, in January 2008, Respondents filled two FTC undercover purchases of RAAX11 made on the website www.agaricus.net and each package delivered to the FTC was from Respondents and contained Respondents' own invoices for each purchase.⁸ In addition, Respondents' own literature specifically directed consumers to go the website www.agaricus.net. In their promotional materials included in the packages of RAAX11 that they shipped to the FTC, Respondents instructed consumers to go the website www.agaricus.net and "click on USA sales."⁹ Respondents' Distributor Introductory Package also directed potential distributors to go to www.agaricus.net for product information.¹⁰

Accordingly, Respondents' participation in challenged practices was deliberate: Respondent Isely must have been aware of the representations on the website and Respondents' exclusive position on the website for sales in the United States. Not only, as noted above, was Respondent Isely cognizant that consumers could purchase RAAX11 from Gemtronics on the website, but he also admitted going to www.agaricus.net to check its prices on occasion.¹¹

⁷ Ex. 6, Liggins Supp. Dec. ¶¶ 4, 5; CCSF ¶¶ 7-10.

⁸ CCSF ¶¶ 12-17.

⁹ CCSF ¶ 17.

¹⁰ The first page of Respondents' Distributor Package containing the reference to www.agaricus.net is appended hereto as Ex. 7.

¹¹ Isely Dep. p. 54.

Respondent Isely further admitted getting consumer calls regarding participation in a study of RAAX11 in the United States that was advertised on this website.¹² Thus, Respondents directly participated in conduct that violated the FTC Act.

III. Respondents' Ability to Control the Acts in Question

Since at least 2006, if not earlier, the registrant, administrative, technical, and zone contact for the domain "agaricus.net" was Respondent Isely at his address.¹³ Here, too, Respondent Isely had to have been aware that this domain was registered to him, because he admitted that he received and, in fact, produced a renewal for the domain "agaricus.net" that had been mailed to him.¹⁴ On or about March 26, 2008, Respondents received from the FTC via Federal Express a package containing a proposed complaint and consent, and a letter indicating that advertising claims for RAAX11 found on the website www.agaricus.net were in violation of Sections 5 and 12 of the FTC Act.¹⁵ About a month later, on or about April 18, 2008, Respondents received a "Warning Letter" from the FDA also via Federal Express that claims for, *inter alia*, RAAX11 found on the website, www.agaricus.net, were in violation of provisions of the Federal Food, Drug, and Cosmetic Act.¹⁶

Thereafter, in May 2008, Respondents, through their counsel, notified Complaint Counsel: 1) that Mr. Isely had himself removed from the domain registration for

¹² Isely Dep. p. 57.

¹³ Ex. 6, Liggins Supp. Dec. ¶ 4, Att. L; CCSF ¶ 20.

¹⁴ Isely Dep. p. 28; CCSF ¶ 41; Ex. 5. Respondent Isely also received various notices in the mail regarding other domains that were registered in his name. Isely Dep. pp. 28, 81-84.

¹⁵ Isely Dep. pp. 48-49; Ex. 8 FTC-00354-55.

¹⁶ Isely Dep. p. 106 (Respondents' Ex. 2 to the deposition).

www.agaricus.net; 2) that the website no longer contained cancer-related claims for RAAX11; and 3) that the product RAAX11 was no longer available through the website to consumers in the United States.¹⁷ It was only after the Respondents received such notification that they took constructive steps to transfer the registrant, technical and administrative contact on the “agaricus.net” domain registration, cease the challenged claims on the website, and cease sales of the RAAX11 product in the United States. Thus, Respondents had the apparent ability to control the domain registration and the website to the extent that the challenged claims were discontinued on the website after Respondents received notice of potential law violations from the FTC and the FDA.

IV. The Velasco Deposition Does Not Support Respondents’ Motion

Respondents’ reliance on the Deposition of Pablo Velasco, a customer service supervisor for Tierra.net, dba Domain Discover, to support Respondents’ contention that Respondents had no participation in and/or control over the website and the challenged advertising claims for RAAX11 is misplaced. Although Mr. Velasco testifies in his deposition that “legal owner” of the domain name “agaricus.net” is currently Agarix International,¹⁸ he is unable to provide testimony or otherwise confirm such key issues as: (1) the parties who may have or have had access to change the domain registration or the contents of the website www.agaricus.net;¹⁹

¹⁷ Ex. 9 FTC 00356-358; 361-62. The domain registration was transferred to George Otto, the owner and operator of Takesun do Brasil, who manufactures RAAX11 and supplied the product to Respondents. Ex. 9, FTC-00356; Isely Dep. pp. 15-19.

¹⁸ Deposition of Pablo Velasco (“Velasco Dep.”) p. 13. A copy of the Velasco Deposition is appended hereto as Ex. 10.

¹⁹ Ex. 10, Velasco Dep. pp. 14-16.

(2) who paid for the domain name and website;²⁰ and (3) who controls the website.²¹ Further, while Mr. Velasco cannot confirm who has access to domain registration and the website, he certainly could not know who participated in, had control over, or otherwise exercised any influence over the claims and information contained in the website www.agaricus.net. Thus, Respondents have yet to present evidence that confirms the statements in Respondents' Motion regarding the control of the website www.agaricus.net, and Respondents have not demonstrated that they did not participate and/or have control over the acts and practices as alleged in the Commission's complaint.

V. Respondents Have Not Met Their Evidentiary Burden

Commission Rule of Practice 3.24(a)(2) provides that summary decision "shall be rendered . . . if the pleadings and any depositions, answers to interrogatories, admissions on file, and affidavits show that there is no genuine issue as to any material fact and that the moving party is entitled to such decision as a matter of law." The party moving for summary judgment must satisfy the evidentiary burden that it would bear at trial. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 254 (1986).

As set forth, herein, Complaint Counsel has demonstrated that Respondents Gemtronics and William Isely have not met the requisite evidentiary standard to satisfy the requirements for granting their Motion for Summary Decision. In fact, Complaint Counsel has set forth compelling evidence that counters the assertions in Respondents' Motion and, therefore, Respondents' Motion for Summary Decision should be denied.

²⁰ Ex. 10, Velasco Dep. pp. 14-15.

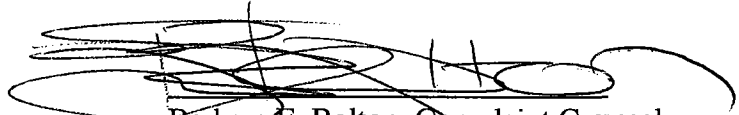
²¹ Ex. 10, Velasco Dep. pp. 13-16, 20-22.

VI. Conclusion

Complaint Counsel respectfully requests that Respondents' Motion for Summary Decision be denied. Complaint Counsel also hereby requests that its Motion for Summary Decision be granted to permanently enjoin Respondents from making any health-related false and/or unsubstantiated claims for RAAX11 or other similar products.

Dated: May 27, 2009

Respectfully submitted,



Barbara E. Bolton, Complaint Counsel
Federal Trade Commission
Southeast Region
225 Peachtree Street, Suite 1500
Atlanta, GA 30303
(404) 656-1362
Bbolton@ftc.gov

CERTIFICATE OF SERVICE

I hereby certify that on this date, I filed and served the attached:

1. **COMPLAINT COUNSEL'S MEMORANDUM IN OPPOSITION TO RESPONDENTS' MOTION FOR SUMMARY DECISION; and**
2. **ATTACHED EXHIBITS 6 THROUGH 10;**

upon the following as set forth below:

The original and one (1) paper copy via overnight delivery and one (1) electronic copy via email to:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, D.C. 20580
email: secretary@ftc.gov


One (1) email copy and two (2) paper copies served by overnight mail delivery to:

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., N.W. Room H-112
Washington, D.C. 20580
email: ojl@ftc.gov

One (1) electronic copy via email and one (1) paper copy via overnight delivery to:

Matthew I. Van Horn
16 W. Martin Street, Suite 700
Raleigh, NC 27602
email: matthew@vanhornlawfirm.com

Dated: May 27, 2009



Barbara E. Bolton, Complaint Counsel
Federal Trade Commission

EXHIBIT 6

SUPPLEMENTAL DECLARATION OF MICHAEL S. LIGGINS
Pursuant to 28 U.S.C. § 1746

I, Michael S. Liggins, hereby state that I have personal knowledge of the facts set forth below. If called as a witness, I could and would testify as follows:

1. I am a citizen of the United States and am over the age of 21. I am employed by the Federal Trade Commission (“FTC” or “Commission”) in the Southeast Region as an Investigator. My qualifications and duties as an FTC investigator and my employment history are set forth in detail in Paragraphs 1 and 2 in the Declaration of Michael S. Liggins appended as Exhibit 2 to Complaint Counsel’s Motion for Summary Decision filed on March 16, 2009.

2. As an FTC Investigator, I participated in the investigation of the activities and business practices of Gemtronics, Inc. (“Gemtronics”) and William Isely (“Isely”) (collectively “Respondents”) involving the advertising, marketing, and sale of the herbal product RAAX11.

3. As part of my investigation, on December 20, 2007, I performed an Internet search of the corporate records database of the North Carolina Secretary of State at www.secretary.state.nc.us for the name William Isely. My search revealed a filing for a corporation, Gemtronics, Inc. The filing, which I printed out that day, showed that in September 2006, Mr. Isely incorporated a company named Gemtronics, Inc., with its principal place of business located at 964 Walnut Creek Road, Franklin, North Carolina 28734. Mr. Isely is listed as the company’s registered agent. Copies of these pages are appended hereto as **Attachment K** (FTC Bates #s (“FTC-”) FTC-000351 - 0353).

4. As part of my investigation, on or about January 28, 2008, the Food and Drug Administration (“FDA”) provided the following documents to the Southeast Region:

A. A WHOIS search for the domain “agaricus.net” dated July 27, 2007, showing the registrant, administrative, technical, and zone contact for this domain as William

Isely, 964 Walnut Creek Rd., Franklin, NC 28734. A copy of the WHOIS pages are appended hereto as **Attachment L** (FTC-00310 - 311); and

- B. Webpages printed on August 15, 2007, from the website www.agaricus.net concerning the product RAAX11. My examination of these webpages revealed:
- (1) A webpage that provides only one telephone number, 828-369-7590, to call in the USA for information about RAAX11. This telephone number belongs to Respondent Isely.¹ This webpage also contains the statement “if you are living in the US, just call Mr. Isely and he will explain how it works.” A copy of this webpage is appended hereto as **Attachment L** (FTC-00305 - 06).
 - (2) A webpage containing statements directing consumers to call another telephone number belonging to Respondent Isely: “Chemo and Radiation not working. This could be the alternative treatment. Call now 1 866 944 7359 for US information” and “USA only Order Information call 866 944 7359.” (**Attachment L**, FTC-00307.)

5. As part of my investigation, on various dates, noted below, I conducted searches for the website www.agaricus.net on the Internet archive website “web.archive.org.” Among a number of archival webpages that I printed out for www.agaricus.net are the following:

- A. On January 30, 2008, I printed out an archived webpage for www.agaricus.net from the date April 2, 2004 (**Attachment M**, FTC-00202), containing statements indicating that consumers could purchase products from Respondents directly by

¹ See Paragraph 4, Declaration of Michael S. Liggins, Exhibit 2 to Complaint Counsel’s Motion for Summary Decision.

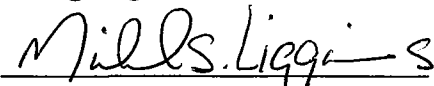
telephone or through the website:

- (1) "Agaricus blazie Murill Product Shopping Cart for USA only. You buy direct from registered manufacture at the FDA in Brazil with FDA registered Warehouse in NC/USA;"
- (2) "Retail prices valid only for USA. Phone 1 828 369 7590 (other countries contact the national agent);" and
- (3) "Note: By pressing the ORDER confirmations button below, I agree to pay Takesun do Brasil (GEMTRONICS) For any question call 1 828-369-7590."

B. On or about January 30, 2008, I printed out an archived webpage advertisement for RAAX11 on www.agaricus.net from the date February 10, 2005 (**Attachment M**, FTC-00203) that indicates that consumers could purchase RAAX11 from Respondents via the website: "Note: By pressing the ORDER confirmations button below, I agree to pay Takesun do Brasil (GEMTRONICS) For any question call 1 828-369-7590;" and

C. On February 19, 2008, I printed out an archived webpage that advertises RAAX11 from www.agaricus.net dated May 9, 2004 (**Attachment M**, FTC-00347), containing the statement: "FDA registered Manufacture in Brazil and FDA registered Warehouse in USA to guarantee you best quality."

**I declare under penalty of perjury that the foregoing statement is true and correct.
Executed this 26th day of May 2009.**


Michael S. Liggins, Investigator
Federal Trade Commission
Southeast Region



Elaine F. Marshall
Secretary

North Carolina

DEPARTMENT OF THE SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0822 (919)807-2000

CORPORATIONS

Date: 12/20/2007

- Corporations Home
- Search By Corporate Name
- Search For New Corporation
- Search By Registered Agent
- Important Notice
- Corporations FAQ
- Homeowners' Association FAQ
- Tobacco Manufacturers
- Dissolution Reports
- Non-Profit Reports
- Verify Certification
- Online Annual Reports

Click here to:

[View Document Filings |](#)

[Print apre-populated Annual Report Form | Annual Report C
Annual Report |](#)

Corporation Names

| Name | Name Type |
|---------------------|-----------|
| NC Gemtronics, Inc. | Legal |

Business Corporation Information

| | |
|-----------------------|----------------|
| SOSID: | 0867758 |
| Status: | Current-Active |
| Date Formed: | 9/20/2006 |
| Citizenship: | Domestic |
| State of Inc.: | NC |
| Duration: | Perpetual |

Registered Agent

| | |
|------------------------------------|--|
| Agent Name: | Isely, William H. |
| Registered Office Address: | 964 Walnut Creek Road Franklin NC 28734 |
| Registered Mailing Address: | 964 Walnut Creek Road Franklin NC 28734 |
| Principal Office Address: | 964 Walnut Creek Road Franklin NC 28734 |
| Principal Mailing Address: | 964 Walnut Creek Road Franklin NC 28734 |

LINKS & LEGISLATION

- KBBE B2B Annual Reports
- SOSID Number Correction
- 2001 Bill Summaries
- 1999 Senate Bills
- Annual Reports 1997
- Corporations 1997
- Register for E-Procurement
- Dept. of Revenue

ONLINE ORDERS

- Start An Order
- New Payment Procedures

CONTACT US

- Corporations Division
- Secretary of State's web site

TOOLS

- Secretary of State Home
- Secretary of State Site Map
- Printable Page

Stock

| Class | Shares | No Par Value | Par |
|--------|--------|--------------|-----|
| Common | 10000 | Yes | N/A |

For questions or comments about the Secretary of State's web site, please send e-mail to [Webmaster](#).

SOSID: 867758
 Date Filed: 9/20/2006 4:21:00 PM
 Elaine F. Marshall
 North Carolina Secretary of State
 C200626100148

State of North Carolina
 Department of the Secretary of State

ARTICLES OF INCORPORATION

Pursuant to §55-2-02 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Incorporation for the purpose of forming a business corporation.

1. The name of the corporation is: Gemtronics, Inc.
2. The number of shares the corporation is authorized to issue is: 10,000
3. These shares shall be: *(check either a or b)*
 - a. all of one class, designated as common stock; or
 - b. divided into classes or series within a class as provided in the attached schedule, with the information required by N.C.G.S. Section 55-6-01.
4. The street address and county of the initial registered office of the corporation is:

Number and Street 964 Walnut Creek Road
 City Franklin State NC Zip Code 28734 County Macon
5. The mailing address, *if different from the street address*, of the initial registered office is:

Number and Street _____
 City _____ State _____ Zip Code _____ County _____
6. The name of the initial registered agent is: William H. Isely
7. Principal office information: *(must select either a or b.)*
 - a. The corporation has a principal office.
 The street address and county of the principal office of the corporation is:

Number and Street 964 Walnut Creek Road
 City Franklin State NC Zip Code 28734 County Macon

The mailing address, *if different from the street address*, of the principal office of the corporation is:
 Number and Street _____
 City _____ State _____ Zip Code _____ County _____
 - b. The corporation does not have a principal office.

8. Any other provisions, which the corporation elects to include, are attached.

9. The name and address of each incorporator is as follows:

William H. Isely, 964 Walnut Creek Road, Franklin, NC 28734

10. These articles will be effective upon filing, unless a date and/or time is specified:

This the 4th day of Sept, 2006

William H. Isely
INCORPORATOR
William H. Isely - Agent
Type or Print Name and Title

NOTES:

1. Filing fee is \$125. This document must be filed with the Secretary of State.

CORPORATIONS DIVISION

P. O. BOX 29622

RALEIGH, NC 27626-0622

(Revised January, 2002)

(Form B-01)

NetworkSolutions.

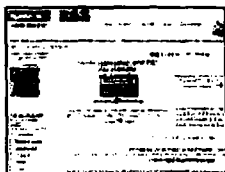
Login

Customer Service
Call us toll free

Your cart is empty

WHOIS Search Results

WHOIS Record For



agaricus.net

Services from Network Solutions:

Certified Offer Service - Let us help you get this domain name!

Backorder - Try to get this name when it becomes available.

SSL Certificates - Get peace of mind with a secure certificate.

This WHOIS database is provided for information purposes only. We do not guarantee the accuracy of this data. The following uses of this system are expressly prohibited: (1) use of this system for unlawful purposes; (2) use of this system to collect information used in the mass transmission of unsolicited commercial messages in any medium; (3) use of high volume, automated, electronic processes against this database. By submitting this query, you agree to abide by this policy.

Registrant:

William Isley
964 Walnut Creek Rd
Franklin, NC 28734-9533
US

Domain Name: AGARICUS.NET

Administrative Contact, Technical Contact, Zone Contact:

William Isley
George Otto
964 Walnut Creek Rd
Franklin, NC 28734-9533
US
(828)389-7590
gotto@takesun.com

SAVE over 70

when you TRANSFER
your domains to
Network Solutions —
trusted domain name

Choose Your Domain
Provider Wisely and
Domains for \$9.99/yr

Learn the do's and do's
search engine optimi
Download our Guide
Found Online now.

See

Domain created on 13-Jun-1998
Domain expires on 11-Jun-2008
Last updated on 12-Jun-2007

Domain servers in listed order:

DNS1.SUPREMESERVER20.COM
DNS2.SUPREMESERVER20.COM

Domain registration and hosting powered by DomainDiscover
As low as \$9/year, including FREE: responsive toll-free support,
URL/frame/email forwarding, easy management system, and full featured DNS.

The previous information has been obtained either directly from the registrant or a registrar
of the domain name other than Network Solutions. Network Solutions, therefore, does not
guarantee its accuracy or completeness.

[Show underlying registry data for this record](#)

| | |
|---------------------------|---|
| Current Registrar: | DOMAINDISCOVER |
| IP Address: | 209.25.170.23 (ARIN & RIPE IP search) |
| IP Location: | UK(UNITED KINGDOM) |
| Record Type: | Domain Name |
| Server Type: | Apache 2 |
| Lock Status: | clientTransferProhibited |
| Web Site Status: | Active |
| DMOZ | 1 listings |
| YI Directory: | see listings |
| Web Site Title: | -Agaricus blazei Murill - Alternative Therapies Agaricus blazei Murill, Mushrooms, Alternative Cancer Therapies, HIV, Free Visits, Icacopflaume,Chrysobalanus icaco |
| Meta Keywords: | <meta name= |
| Secure: | No |
| E-commerce: | Yes |
| Traffic Ranking: | 1 |
| Data as of: | 25-May-2004 |

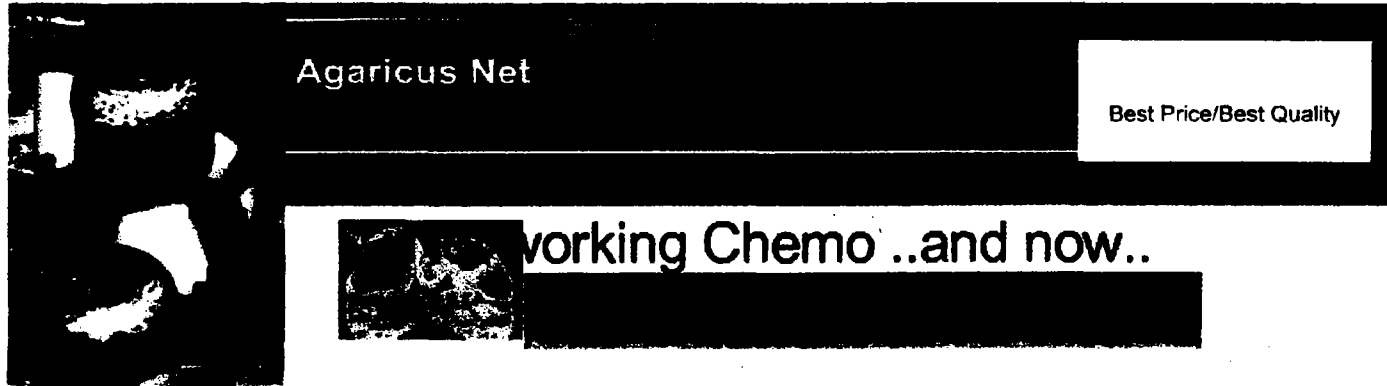
**BUY THE AVAILABLE
EXTENSIONS
FOR THIS DOMAIN NA**

- agaricus .tv
- agaricus .cc
- agaricus .bz
- agaricus .vg
- agaricus .gs
- agaricus .tc
- agaricus .m

Continue >

SEARCH AGAIN

Enter a search term:



| |
|---------------------|
| Cancer |
| Breast Cancer |
| Cancer Form |
| Leukemia |
| Liver |
| Lung Cancer |
| Prostate Cancer |
| Chemo Therapy |
| Cancer research |
| HIV Treatment |
| Shopping Cart/Sales |
| Research |
| Wholesales |
| Products |
| RAAX11 |
| Testimonials |
| Home |

Fill out form and get 100 \$ discount

Name

email

Country

Phone

City

I am suffering at:

I want to use/info:

Comment

Has a cancer killer been discovered? RAAX11 Extract

Brazilian scientists have discovered a tropical plant substance that holds great promise in the fight against various types of cancer. Up to now, this South American folk remedy has mainly been used against diabetes.

Scientists report that during laboratory tests the substance destroyed cancer cells that had been resistant to treatment up to now. This is a rare occurrence. The substance is so promising it is being kept under wraps at present. Even very resistant Leukemia cells die off

Informations USA 828-369-7590 or Brazil 55 47 3001 5260 or UK 44 020 8133 2774
Raax 11 is also sold in USA by Greenpharmacy

Specially at breast cancer the OPC Agaricus protocol shows that it works in

99,9% of all cases. Even at late stage IV it seems to work. From late 2004 to today about 517 women took the protocol. Dr. Miller in Toronto, Canada, reports, since he is using the OPC Agaricus protocol nobody of his patient died. So we receive this positive message everyday from all over the world.

If you are living in the US, just call Mr. Isely and he will explain how it works. Or fill out form

* Required

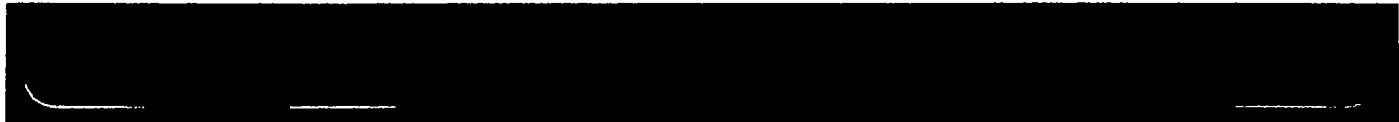
If you want to try it out, order now and receive for each bottle of OPC Agaricus extract and RAAX11 an special discount of 100 \$.

(Explanation)

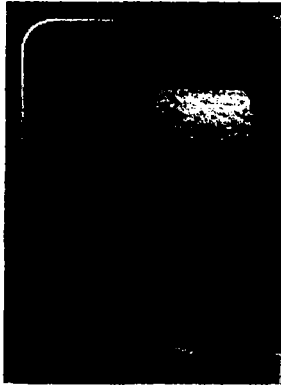


You need help?
Let's talk about it...

Anti cancer effect: ABM contains natural steroids, known for it's anti cancer effect. (It is different from the chemically produced steroids that enhance the body that is often said to be the cause of cancer). It is particularly effective in prevention of uteran cancer.



all rights Agaricus Net 1998 - 2007



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Chemo and Radiation not working. This could be the alternative treatment. Call now 1 866 944 7359 for US informat

Cancer
Discount
HIV Experience
Shopping Cart
Cancer **Forum New**
Research
Wholesales
OPC Agaricus
Products
RAAX11
Testimonials
Home

Put your link here [Free Li](#)



Cht

Agaricus OPC, RAAX11 or strong water Extract?

In 2004 we began a trial with 91 women who were suffering from breast cancer and were diagnosed as either stage IIIb or stage IV, and who decided not to participate in a program of chemotherapy or use some other chemical therapy. These women began following a natural Agaricus program, where the Agaricus extract RF1000 was mainly used. By April, we had received confirmation that 3 women were 100% cancer free. That same month we added the new RAAX11 extract to the RF1000 protocol. Here are the results so far:



Results:

- 41 Patients, entered with stage IV/IIIb, taking RAAX11 plus RF 1000, are in total recovered.
- 23 patients, entered with stage IV/IIIb, taking RAAX11 plus RF 1000, are in remission.
- 27 Patients, entered with stage IV/IIIb, taking RAAX11, plus RF 1000, are in the same stage, no change.
- 9 Patients, entered with stage IV/IIIb, taking RAAX11, plus RF 1000, did not survive treatment.

Agaricus - Extract



Agaricus blazei Murill, bottle 100 ml strongest Extra

Order \$24.90

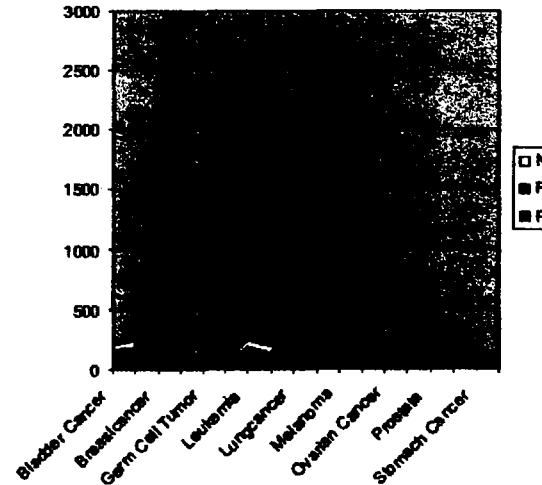
USA only Order Information call 866 944 7359

This year already 2251 patients in remission using the OPC Agaricus protocol



FREE chat by Volusion

These figures show an extremely encouraging survival rate during our trial of 91.27%. We are proud to say that our new program may offer hope for women who are looking for alternatives



Fill out the form and get free sample*

Become our partner

You own a health food store, are a medical advisor or want to offer your people Agaricus blazei Murill; this is your chance to sign up with one of the largest Natural Health Companies, offering real strong Immune System Builders. Get the product right from the producer in Brazil. And if you are interested in large quantities, just call us and you never will find better prices all over the net. Or send us your phone number and we call you back.

The basis for all our products are the Agaricus blazei Murill mushrooms you find in our 1,200,000 m² large plantation in Piedade Brazil, with more than 15 years experience growing in Biological open plantations, right in the hills where the Agaricus blazei Murill mushroom has been discovered.

This means that our mushrooms include the highest Ergosterol Glucan ingredients. (more than 90 - 200 mg - standard: 60 - 80 mg).

Special Discount for Cancer Patients only

| | |
|----------------------|--|
| Name | <input type="text"/> |
| email | <input type="text"/> |
| Country | <input type="text"/> |
| Phone | <input type="text"/> |
| City | <input type="text"/> |
| Suffering at: | <input type="text" value="Select One..."/> |
| Use for: | <input type="text" value="Select One..."/> |
| Comment | <input type="text"/> |

*with your first order

L'extrait d'agaricus d'OPC safed déjà la vie de plus de 5000 patients de cancer. Essayez-le dehors main

Sales in:

Austria - Australia - China - Canada - Hong Kong - Germany - Korea - Macao - Singapore - Spain - South Africa - Portugal - USA

all rights Agaricus Net 1998 - 2007
World largest Agaricus blazei Murill Network

We sell our products strictly as dietary supplements. These products are not intended to diagnose, treat, cure or prevent any disease. The Food and Drug Administration not approved this (these) statement(s). We do not make any claims, represented or otherwise implied, as to its products having medicinal benefits or value. We are not authorized and are strictly prohibited from making any diagnostic medical claims or guarantees, drug claims, or prescribe Takesun do Brazil products to treat any disease condition. Descriptions on this page, although believed to be accurate, are for informative purposes only and may not necessarily represent the opinion of Agaricus Net.

Home Agaricus Cancer contact Sales Wholesale Language Products

100% strongest Agaricus blazei Murill Brazilian Quality Dietary Supplements

Agaricus blazei Murill Product Shopping Cart for USA only 

You buy direct from registered manufacture at the FDA in Brazil with FDA registered Warehouse in NC/USA 

We apply a 5% discount for orders over \$ 300

Live Support Monday - Friday 5:00 am - 5:00 pm (GMT -2hs)

Hablamos Espa: Wir sprechen Deutsch We speak english













Retail Prices valid only for

STATUS: OFFLINE
PLEASE CLICK TO
LEAVE A MESSAGE

powered by  bravenet.com

USA. Phone  1 828 369 7590

(other countries contact the national agent) 

| Item | | Quantity | Product Description | Unit Price |
|---|---|----------------------|--|------------------------------|
| Dried Agaricus 2x 100 g bag |  | <input type="text"/> | Golden Quality" Agaricus mushrooms, best selected organic Quality, hand selected and very carefull packed, so that no mushrooms will be brooken, carefullyl packed into a 100 g. Security bag or bottle | News\$39.90 |
| Dried Agaricus |  | <input type="text"/> | Agaricus blazei Murill, dried mushrooms, from Piedade Brazil, very selected and hand selected, special packing 100gr bag, .click for explanation. limited offer. | \$18.99 |
| Extra Strong Sweet Agaricus extract |  New | <input type="text"/> | Agaricus blazei Murill, strongest sweet water extract with stevia.100ml = 436 g dried mushrooms, natural manufactured. | \$19.90 |
| Extra Strong Agaricus Extract |  | <input type="text"/> | The strongest Agaricus blazei Murill, water extract, 100ml, bottle, 100ml = 458 g dried mushrooms, natural manufactured. | \$29.90 |
| RF 1000 extract |  | <input type="text"/> | Agaricus blazei Murill, RF 1000™ strongest juice extract, 100ml bottle, natural manufactured. <u>click for explanation</u> | \$25.90 |
| RF 1000 extract | | <input type="text"/> | Agaricus blazei Murill, RF 1000™ strongest juice extract, 200ml bottle, natural manufactured. <u>click for explanation</u> Special Price | \$49.50 |
| Dried Agaricus powder | NEW | <input type="text"/> | Agaricus blazei Murill, dried powder, 180gram container, 100% natural grain. | \$29.90 |
| 60 Caps- 500 mg カプセル |  | <input type="text"/> | Agaricus blazei Murill, strong capsules, of 60 Vegi caps, 500 mg. ea, best quality right from the city where the Agaricus bl. Murill mushroom has been discovered. Piedade Brazil. | \$19,90 |
| Agaricus Capsules |  | <input type="text"/> | Agaricus blazei Murill, strong capsules, container of 60 caps, 300 mg. Easy to take. | \$ 13,00 |
| APM Extract |  | <input type="text"/> | Agaricus blazei Murill, APM, 1:25 extract, 200ml bottle Immune Booster natural manufactured. <u>click for explanation</u> | \$49.00 |
| RF 1000 powder | | <input type="text"/> | Agaricus blazei Murill, RF 1000, one kilo of premixed powder, 55 tea bags, | Special Price \$79.00 |
| Camu Camu |  | <input type="text"/> | Camu-Camu, Strongest natural Vitamin C extract in the world, container with 60 caps., <u>click for explanation</u> | \$13.50 |
| Camu Camu | | <input type="text"/> | Camu-Camu, powder in container, 40 grams 100% NATURAL VITAMINE the strongest natural Vitamin on the World from the Raintorest. | \$ 20.00 |
| Power Builder |  | <input type="text"/> | Power Builder, strongest natural energy capsules, to build up immune system, container with 60 caps. limited offer. (Buy one get one free) | \$ 19.90 |
| Immune System Kit One | | <input type="text"/> | Immunesystem Kit One, one month supply, incl. 4 bottles RF 1000 & 3 container Camu Camu, 60 caps you save 26,00 USD | \$149.00 |
| Immune System Kit III | | <input type="text"/> | Immune System Kit, III, includes 20 bottles RF 1000 - 100ml, 8 bottles APM - 100ml, plus 10 bottles Camu Camu (one month supply) | \$799.50 |

I authorize Takesun USA to charge my credit card for the total amount of above order. I further affirm that the name and personal information provided on this form are true and correct. I understand that credit card fraud will be prosecuted to the fullest extent of the law. Your results may vary. Offer void where prohibited.

Note: By pressing the ORDER Confirmations button below, I agree to pay Takesun do Brasil (GEMTRONICS) For any question call 1 828-369-7590.


Vendas Portugal

Product - China - Canada - Argentina - Australia - Korea - Taiwan - Singapore - South Africa - Portugal - USA

OPC Agaricus Extract is simply the best in the world. Everybody can afford this - talk to us to find out.

Special Offer

Extra Strong Sweet Agaricus extract bottle
 100ml - 35.90€



Name:

Quantity:

Name:

Country:

Phone:

Email:

Looking for:

Usage for:

I authorize Takesun USA to charge my credit card for the total amount of above order. I further affirm that the name and personal information provided on this form are true and correct. I understand that credit card fraud will be prosecuted to the fullest extent of the law. Your results may vary. Offer void where prohibited.

Note: By pressing the ORDER Confirmations button below, I agree to pay Takesun (a Brazil GEMTRONICS) for any question call 1 828-389-7590.



Language Wholesale



Agaricus brasiliense the only original from Piedade/Brazil FDA registered Manufacture in Brazil and FDA registered Warehouse in USA to guarantee you best quality Choose your country you want to order

China USA Germany Portugal South Korea Thailand Singapore South Africa Other Countries Information

RAAX 11 - Amazone Extract

New Alternative seems to works 90% of all cancer cells. Available now also in South Africa, USA & Europe!!!



If you have any question contact us. don't forget to fill out the form complete

Cancer Cells (source W&B/ Boehringer Ingelheim) Sao Paulo - Brazilian scientists won a substance, which promises progress with the fight of different kinds of cancer from a tropical plant. As media reported on Thursday (local time) with reference to scientists. The successful laboratory tests were accomplished the data according to with cancer cells made of chest -, brain -, lungs -, intestine -, laryngeal and pancreas tumors. "which surprised us at most, is the fact that thereby also leukaemische cells were killed, which are resistant to very many medicines and working methods". The substance is called RAAX11.

Name: [] Country: [] Phone: [] Email: [] Looking for: Agaricus dried mushrooms [] Usage for: Immunesystem [] Submit form

All Rights Agaricus Net 1998 - 2004

* We sell our products strictly as dietary or food supplements. These products are not intended to diagnose, treat, cure or prevent any disease. The Food and Drug Admini approved this (these) statement(s). We do not make any claims, represented or otherwise implied, as to its products having medicinal benefits or value. We are not authori prohibited from making any diagnostic medical claims or guarantees, drug claims, or prescribe Takesun do Brazil products to treat any disease or condition. Descriptions on

[Email Me!](#)

EXHIBIT 7

DISTRIBUTOR INTRODUCTORY PACKAGE

Welcome to the world of Takesun USA

This package contains the distributor agreement which is to be filled out and returned to Takesun USA, a products price schedule which shows the costs of Takesun USA products to distributors at various buying volumes, a blank order form, a list of some services provided by Takesun USA to distributors, and a summary of good business practices. Our retail branch is *Gemtronics*.

There is a booklet about the development of Takesun do Brasil and the growing of their *Agaricus blazei* Murill mushroom products which is available on request.

Also of interest to prospective distributors is a brochure describing the most popular products, and some ideas on using them. More information is available on the Takesun do Brasil web site, www.agaricus.net or www.our-agaricus.com

Takesun USA is located at: 964 Walnut Creek Rd.
Franklin, NC, 28734
phone 828-369-7590
FAX 828-369-5861
email-wisely@smnet.net

Best Regards: Bill Isely, Gen. Mngr. Takesun USA

EXHIBIT 8



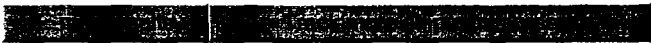
[Close Window](#)

Track Shipments/FedEx Kinko's Orders
Detailed Results

[Print](#)

| | | | |
|----------------------------------|---------------------------|---------------------|-------------------|
| Tracking number | 799824982991 | Destination | FRANKLIN, NC |
| Signed for by | Signature release on file | Delivered to | Residence |
| Ship date | Mar 25, 2008 | Service type | Priority Envelope |
| Delivery date | Mar 26, 2008 3:07 PM | Weight | 0.5 lbs. |
| Status | Delivered | | |
| Signature image available | No | | |

| Date/Time | Activity | Location | Details |
|---------------------|--|------------------|---|
| Mar 26, 2008 | 3:07 PM Delivered | FRANKLIN, NC | Left at front door. Package delivered to recipient address - release authorized |
| | 9:05 AM On FedEx vehicle for delivery | ASHEVILLE, NC | |
| | 8:35 AM At local FedEx facility | ASHEVILLE, NC | |
| | 5:57 AM At dest sort facility | GREER, SC | |
| | 12:51 AM Arrived at FedEx location | INDIANAPOLIS, IN | |
| Mar 25, 2008 | 9:59 PM Left origin | ATLANTA, GA | |
| | 6:13 PM Picked up | ATLANTA, GA | |
| | 12:33 PM Package data transmitted to FedEx | | |



Subscribe to tracking updates (optional)

Your name:

Your e-mail address:

| E-mail address | Language | Exception updates | Delivery updates |
|----------------------|----------|-------------------------------------|--------------------------|
| <input type="text"/> | English | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input type="text"/> | English | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input type="text"/> | English | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input type="text"/> | English | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Select format: HTML Text Wireless

Add personal message:

Not available for Wireless or non-English characters.

By selecting this check box and the Submit button, I agree to these [Terms and Conditions](#)



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
SOUTHEAST REGION

225 Peachtree Street, N.E., Suite 1500
Atlanta, Georgia 30303-1729

Direct Dial
(404) 656-1362

Barbara Elizabeth Bolton
Attorney

Fax
(404) 656-1379

March 25, 2008

Via Federal Express

William H. Isely
Gemtronics, Inc.
964 Walnut Creek Road
Franklin, NC 28734-9533

Re: Gemtronics, Inc. and William H. Isely, FTC Matter No. 0823080

Dear Mr. Isely:

The staff of the Federal Trade Commission ("FTC") has conducted an investigation of Gemtronics, Inc., regarding Internet advertising for the product RAAX11 on the website www.agaricus.net. Staff has concluded that claims made for this product on the website are false or unsubstantiated and, therefore, constitute deceptive advertising in violation of Sections 5 and 12 of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 52.

Consistent with this conclusion, the FTC's Bureau of Consumer Protection has approved a federal district court complaint against Gemtronics, Inc. and you, as the company's general manager. At this point, however, staff is authorized to offer you the opportunity to negotiate a settlement agreement to resolve the complaint charges. A copy of the complaint to be filed and a proposed settlement agreement are included with this letter.

It is important that you give this matter your immediate attention. If a settlement is not reached in the next few weeks, we intend to pursue further legal action and seek authorization to file this complaint in federal district court. You may wish to contact an attorney for advice. You, or any attorney you retain, should call me at 404-656-1362, no later than, Tuesday, April 1, 2008, to discuss settlement of this matter.

Thank you for your cooperation. We look forward to hearing from you.

Sincerely,

Encls.

FTC-000355

EXHIBIT 9

RECEIVED
MAY 08 2008
ATLANTICO
FTC

MATTHEW I. VAN HORN
PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEY AT LAW

16 WEST MARTIN STREET, SUITE 700
RALEIGH, NORTH CAROLINA 27601

TELEPHONE (919) 835-0880
FACSIMILE (919) 835-2121

POST OFFICE BOX 1309
RALEIGH, NORTH CAROLINA 27602

matthew@vanhornlawfirm.com

also licenced in VA, DC and OK

May 6, 2008

VIA FACSIMILE: (404) 656-1379
and United States Mail

Ms. Barbara E. Bolton
Federal Trade Commission
225 Peachtree Street, N. E.
Suite 1500
Atlanta, GA 30303

Re: William Isely- agaricus.net

Dear Barbara:

Thank you for your patience with respect to resolving the above referenced matter. As you are aware, the claims which the Federal Trade Commission ("FTC") seeks to bring against my client are predicated on the notion that my client is responsible for the advertising, marketing and sale of the product RAAXII by disseminating information through the offending website, agaricus.net.

On April 23, 2008, you sent me documentation which you believe to be evidence that Mr. Isely has control over the offending website. We have obtained information which shows definitively that Mr. George Otto (a/k/a George Kather) and the company Agarix International are the entities which have and have always had control over the content of the offending website.¹ Please see attached documents.

I think you will find that the attached items show definitively that Mr. Isely's name was associated only with the website as a registrant, which does not give him any authority or access to the content of the website. Moreover, he was identified as a registrant without his consent.

¹ Agarix International is a defunct company and its ownership was passed to Takesun do Brasil, a company which is owned and operated by George Otto.

FTC-000356

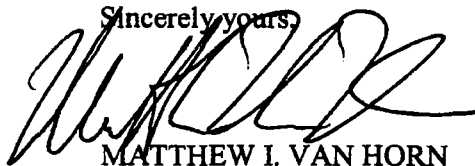
Ms. Barbara E. Bolton
Federal Trade Commission
Page -two-

May 6, 2008

Mr. Isely has taken steps to inform Mr. Otto and the website hosting company that his name and any affiliation to his name should be removed from the website agaricus.net. Both parties have agreed to his requests. Please see attached documents.

Please contact me at your convenience to discuss this matter and the financial documents.

Sincerely yours,



MATTHEW I. VAN HORN

MIVH:lr

cc: Mr. William Isely

Enclosures

FTC-000357



To whom it may concern,

I hereby confirm that the information listed for the domain **agaricus.net** is legitimate and is listed below:

Registrant:

Agarix International
Br 101, KM 22,5
Joinville, SC 89239500
Brazil
47 3001 5260
gotto@takesun.com.br

Domain Name: AGARICUS.NET

Administrative Contact, Technical Contact, Zone Contact:

Takesun
Attn: George Otto
Br 101, KM 22,5
Joinville, SC 89239500
Brazil
47 3001 5260
gotto@takesun.com.br

Domain created on 13-Jun-1998
Domain expires on 12-Jun-2009
Last updated on 15-Apr-2008

Domain servers in listed order:

DNS1.SUPREMEDNS.COM
DNS2.SUPREMEDNS.COM

Sincerely,
Pablo Velasco
TierraNet Customer Service Supervisor

MATTHEW I. VAN HORN
PROFESSIONAL LIMITED LIABILITY COMPANY
ATTORNEY AT LAW

16 WEST MARTIN STREET, SUITE 700
RALEIGH, NORTH CAROLINA 27601

TELEPHONE (919) 835-0880
FACSIMILE (919) 835-2121

POST OFFICE BOX 1309
RALEIGH, NORTH CAROLINA 27602

matthew@vanhornlawfirm.com

also licensed in VA, DC and OK

May 15, 2008

VIA FACSIMILE: (404) 656-1379
and United States Mail

Ms. Barbara E. Bolton
Federal Trade Commission
225 Peachtree Street, N. E.
Suite 1500
Atlanta, GA 30303

Re: William Isely- agaricus.net

Dear Barbara,

Thank you again for your continued courtesies and patience with respect to resolving the referenced matter. As you and Federal Trade Commission ("FTC") consider what action to take against Mr. Isely, please consider the following.

As you are aware, the FTC sent a warning letter dated October 23, 2007, to the alleged offending website. However, Mr. Isely did not receive the warning letter as Mr. Isely is not the administrator of the website, nor is he able to control the content of the website. Mr. Isely received a copy of the FTC warning letter for the first time when you sent it to my office on May 6, 2008.

The FTC letter states that "Health-related claims, like those made about cancer on your website, must be supported by competent and reliable scientific evidence – the kind of evidence scientists who are experts in the field would rely on." The letter further states that "it is against the law to make health claims without scientific support, to exaggerate the benefits of products or services, or to misstate the level of scientific support you have for your claims."

It bears worth repeating that Mr. Isely has never had control over the contents of the alleged offending website. However, assuming *arguendo* that Mr. Isely did have control over

FTC-000361

the contents of the website, the representations as to argaricus derived products are arguably supported by reliable studies and other scientific evidence. For instance, the studies and scientific evidence cited on the alleged offending website are actual findings from scientific sources and are the same studies and scientific evidence cited and recognized by the Memorial Sloan-Kettering Cancer Center, the most notable and recognized cancer center in the world. I have enclosed the information Memorial Sloan-Kettering provides on its website about argaricus derived products.

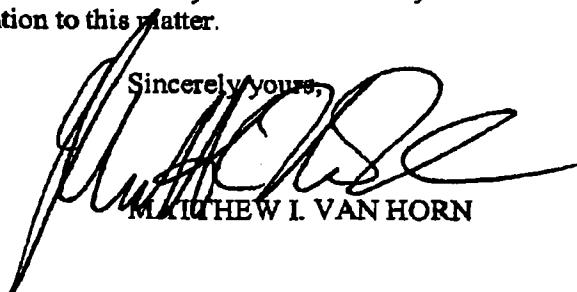
By contrast, the Memorial Sloan-Kettering website also refers to cancer treatments and studies using magnets or electromagnetic fields as "unsubstantiated" and "theoretical." Likewise, Memorial Sloan-Kettering states that there are no clinical studies that evaluate magnetic field therapy for any proposed claim other than relief of pain. However, with respect to argaricus derived products, Memorial Sloan-Kettering cites studies where argaricus based products were found to inhibit tumor development and improve chemotherapy-associated side affects. These studies and findings cited by Memorial Sloan-Kettering are the same studies which were cited on the alleged offending website.

Mr. Isely does not intend to initiate a website or make any representations regarding the product RAAX11 or other products derived from argaricus. However, it is arguable that the representations made on the alleged offending website are supported by competent and reliable scientific evidence. If prosecuted, Mr. Isely is prepared to introduce the referenced studies and the information provided by Memorial Sloan-Kettering through an expert witness.

I am still in discussions with my client regarding the release of his financial documents. His hesitation and concern over releasing these documents is based on the fact that when you first contacted him, you stated to him that the FTC only wanted to enjoin the representations being made on the referenced website. Through my client's requests to Mr. George Otto, the operator of the alleged offending website, the contents of the website have changed dramatically and now no United States citizen can purchase any items from the alleged offending website. As such, understandably, my client is concerned about the motivation of the FTC in seeking his private financial documents.

I will be speaking with my client later today and will contact you thereafter. Thank you again for your courtesies and attention to this matter.

Sincerely yours,



MATTHEW I. VAN HORN

MIVH:lr

cc: Mr. William Isely

Enclosure

EXHIBIT 10

In the Matter of:

Gemtronics, Inc., et al.

February 4, 2009

Pablo Velasco

Condensed Transcript with Word Index



**For The Record, Inc.
(301) 870-8025 - www.ftrinc.net - (800) 921-5555**

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I N D E X

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A P P E A R A N C E S

| | |
|----|--|
| 1 | |
| 2 | On Behalf of the Federal Trade Commission: |
| 3 | BARBARA ELIZABETH BOLTON, ESQUIRE |
| 4 | Federal Trade Commission, Southeast Region |
| 5 | 225 Peachtree Street, N.E. |
| 6 | Suite 1500 |
| 7 | Atlanta, Georgia 30303 |
| 8 | 404.656.1362 (telephone) |
| 9 | 404.656.1379 (fax) |
| 10 | bbolton@ftc.gov |
| 11 | |
| 12 | On Behalf of Gemtronics, Inc. and the witness: |
| 13 | MATTHEW I. VAN HORN, ESQUIRE |
| 14 | 16 West Martin Street, Suite 700 |
| 15 | Raleigh, North Carolina 27601 |
| 16 | 919.835.0880 (telephone) |
| 17 | 919.835.2121 (fax) |
| 18 | matthew@vanhornlawfirm.com |
| 19 | |
| 20 | |
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2

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

In the Matter of:
GEMTRONICS, INC., a
corporation, and DOCKET NO. 9330

WILLIAM H. ISELY, Individually
and as the Owner of Gemtronics,
Inc.

Wednesday, February 4, 2009
Oakhill Country Inn
1689 Old Murphy Road
Franklin, North Carolina 28734

The above-entitled matter came on for the
taking of a telephonic unsworn statement at 3:15 p.m.

Reported by:
Mary K. Huth-Stepp, Registered Professional Reporter

4

PABLO VELASCO,

called on behalf of the Respondent for a telephonic
unsworn statement:

EXAMINATION

BY MR. VAN HORN:

**Q. All right. She is officially transcribing what
you're saying and what I'm saying; okay?**

A. Okay.

(Respondent's Deposition Exhibit No. 1 was
marked for identification).

BY MR. VAN HORN:

**Q. First housekeeping matter, really there's two
items here. One, you should have in front of you a
Subpoena, what's called a Subpoena Duces Tecum. Do you
see that form?**

A. Yeah, I have it in front of me.

Q. Okay. It's mailed it your attention?

A. Okay.

**Q. On behalf of TierraNet, doing business as Domain
Discover. That's the company for whom you work; is that
correct?**

A. That is correct.

**Q. Just for curiosity, are you an officer of the
company? Are you a shareholder?**

A. No, I'm just an employee. I'm a customer

5

1 service supervisor.

2 **Q. We spoke earlier today about a document or**

3 **documents that you e-mailed to me.**

4 A. Uh-huh (affirmative).

5 **Q. And one of them was a previous correspondence**

6 **you had e-mailed to me on Domain Discover letterhead;**

7 **does that ring a bell?**

8 A. That is correct.

9 **Q. And it was responsive to an inquiry I submitted**

10 **to you regarding Agaricus.net, which is a domain, I**

11 **believe. I'm going to spell it for you for the record.**

12 **A-G-A-R-I-C-U-S.net. Do you remember that?**

13 A. I do.

14 **Q. Okay.**

15 A. I actually have the document I sent you in front

16 of me.

17 **Q. Okay. So this is sort of the second**

18 **housekeeping matter. This document, it doesn't have a**

19 **date on it. And I know you sent it to me via e-mail and**

20 **so I should have -- I do have that e-mail, just not with**

21 **me. So that's a transmittal e-mail and that would**

22 **reflect what day you prepared this document.**

23 A. Uh-huh (affirmative).

24 **Q. But earlier today we spoke and I said you needed**

25 **to, that you needed -- in order to make this official,**

6

1 **you needed to send me a cover letter on behalf of your**

2 **company saying that you were submitting documents in**

3 **response to this Subpoena Duces Tecum.**

4 A. Uh-huh (affirmative). Yes. You're cutting a

5 little bit. Not sure if it's a line issue, but some of

6 your words cut off a little bit.

7 **Q. Oh.**

8 A. So if I don't respond right away to something.

9 **Q. Okay.**

10 A. I did.

11 **Q. So you -- since we spoke, you sent me a**

12 **responsive letter saying these documents are responsive**

13 **to the subpoena?**

14 A. Uh-huh (affirmative). Yeah. I haven't sent the

15 new version of the document with the cover letterhead,

16 but I'm intending to do that before the end of my shift

17 today, which is at 2:00.

18 **Q. Okay. That's fine. So you may want to make a**

19 **note, though, what we need is -- perhaps you can find the**

20 **e-mail that you sent to me back when you first sent this**

21 **correspondence.**

22 A. Uh-huh (affirmative).

23 **Q. And just so -- we need to know what date you**

24 **prepared this document, the one from you that says**

25 **Sincerely, Pablo, at the bottom.**

7

1 A. Okay. Yeah. I will, I will go ahead and trace

2 through my item folder to check exactly when the first

3 issue of this document was sent to you.

4 **Q. Okay. You don't happen to have anything in front**

5 **of you that would tell you when you prepared it; do you?**

6 A. I can take a look. Give me one second.

7 **Q. Okay.**

8 A. I might be able to track that down. Just give

9 me a moment.

10 MR. VAN HORN: All right. No hurry.

11 MS. BOLTON: I'll go off --

12 A. Because sometimes I generate a document, but I

13 don't necessarily send them on the same day. Probably

14 send them the next day or two. So let me see if I can

15 track down exactly when the document was generated.

16 **Q. Okay.**

17 A. I should be able to see it based on the files,

18 when the file was created.

19 MR. VAN HORN: I understand. The other lawyer

20 here wants to talk to me for a second; okay? Hold on.

21 THE WITNESS: Okay.

22 (Off-record discussion).

23 BY MR. VAN HORN:

24 **Q. Pablo?**

25 A. Yes.

8

1 **Q. I'm going to interrupt you. Let me ask you,**

2 **what is it that you're going to send in? What document**

3 **or documents are you sending me in response to the**

4 **Subpoena?**

5 A. I'm basically just sending you a document

6 confirming who the registrant for Agaricus.net is, who

7 the administrative contact is, when the domain was

8 created, when the domain was set to expire, the last time

9 the domain was updated and the name server that the

10 domain was pointing to at the time I got the information.

11 **Q. Okay. So it's virtually identical to the**

12 **document you e-mailed to me many months ago; is that**

13 **right?**

14 A. That is correct.

15 **Q. Okay. So what we're dealing with here, though,**

16 **is -- what's important is we need to know separate and**

17 **apart from what this document says, we need to know when**

18 **you prepared it. Actually, we need to know what date**

19 **this information was effective.**

20 A. Okay.

21 **Q. And we can either know now or you can just tell**

22 **me later.**

23 A. Okay.

24 **Q. I mean, if you want to take another second to**

25 **find out.**

1 A. Let me see if I'm able to find out. I thought I
 2 would be able to see when the document was first created,
 3 but unfortunately the file doesn't have the date when it
 4 was created. It reflects yesterday's date. So give me
 5 one second, I'll see when I first sent you a copy of the
 6 document. Just a second.

7 **Q. Okay. Wonderful.**

8 A. Okay. The first instance of the document was
 9 sent on April the 29th of 2008 at 1:48 p.m. And it was
 10 sent to Matthew@VanHornlawfirm.com.

11 **Q. Let me ask you this, turning to the substance of**
 12 **that document, can you tell me -- we have information**
 13 **that shows us that this registrant information that's**
 14 **presently on the document that you sent to me April**
 15 **29th --**

16 A. Uh-huh (affirmative).

17 **Q. -- that there was, previously for this domain**
 18 **there was other -- there was a different registrant and a**
 19 **different administrative contact. Do you have anything**
 20 **in your office that shows when those were switched? Is**
 21 **it the last update date? Is that probably when it was?**

22 A. Uhm.

23 **Q. And you don't --**

24 A. No. Actually, no. Because the last time -- the
 25 last update that I show on the domain was the domain

1 A. No, the one with the contact information, when
 2 it was last updated and --

3 **Q. Yeah. You just read a document that said**
 4 **March 28, 2008, and you called it domain history. Can**
 5 **you print that and -- because that's --**

6 A. It's not actually a document, it's just a list
 7 of logs that are generated whenever changes are made on
 8 the domain name. And it shows where the changes were
 9 made from.

10 **Q. So can you --**

11 A. It's not actually a document.

12 **Q. So you can't make a hard copy?**

13 A. I could probably do it. However, the log itself
 14 doesn't show what the information was before and after
 15 the change was made. It's all coded in. It just shows
 16 codes for the old information and the new information.
 17 It doesn't explicitly show who the new contact person is,
 18 who the old was, it just shows the number of the code.

19 **Q. Okay. So what you're testifying to is that on**
 20 **March 28th, correct me if I'm wrong, on March 28, the**
 21 **information within the individual or company identified**
 22 **as registrant and the entity under administrative**
 23 **contact, technical contact and zone contact, those**
 24 **changed?**

25 A. Yes. The administrative and billing contact

1 getting renewed --

2 **Q. I got you.**

3 A. -- or extended for one year.

4 **Q. So is it -- can you tell us when these names,**
 5 **the current, the current names on the document you sent**
 6 **me April 29th, '08, that you're looking at in front of**
 7 **you, and I'm looking at, can you tell me when those names**
 8 **were inserted there, when that was changed? Because we**
 9 **have documents from the past that show a different, you**
 10 **follow, a different, different registrant, different**
 11 **administrative contact.**

12 A. Okay.

13 **Q. So I was curious if you could -- can you tell us**
 14 **when --**

15 A. Looking, looking at the logs or the domain
 16 history, the last time I see that the contact information
 17 was updated on the account or on the domain was on March
 18 the 28th of 2008.

19 **Q. Okay. Can you -- that document that you just**
 20 **referred to, that would actually fall within the scope of**
 21 **what we've requested in the Subpoena. Can you print that**
 22 **document and also send it to me?**

23 A. Which document?

24 **Q. The one you were just reading, the domain**
 25 **history?**

1 were updated on the 28th of March.

2 **Q. And the registrant? And the registrant was as**
 3 **well; is that correct?**

4 A. No. The registrant does not show as being
 5 updated.

6 **Q. Okay. So my next few questions, and then we**
 7 **should be done. I guess the mind-set that I need here is**
 8 **you're talking -- you need to explain this to someone who**
 9 **doesn't know anything about this stuff; all right?**

10 A. Okay.

11 **Q. So I guess the two things, if we could do first,**
 12 **if you could tell me what these terms are, registrant,**
 13 **administrative contact, technical contact and zone**
 14 **contact, and then I just want to have you walk us through**
 15 **the process of setting up a domain.**

16 A. Okay. Well, first, the first item that shows on
 17 the document that I sent you is the registrant. And
 18 that's, that's information that I got from our database
 19 that shows information to the public on the Internet.

20 The registrant, as it appears on the WHOIS
 21 database, is who the person that holds the domain name
 22 wants to show as the owner of the domain, but is not
 23 necessarily the legal owner of the domain name itself.

24 **Q. Okay.**

25 A. Probably a little confusing, but that's the

13

1 published owner of the domain name, but not the actual
 2 legal owner.
 3 **Q. Okay.**
 4 A. I'm not sure if I'm making sense.
 5 **Q. No, you're right. It is confusing, but I**
 6 **understand. So do you know who the legal owner of it is?**
 7 A. The legal owner, as it appears on our system, is
 8 never shown on the WHOIS database or is never made
 9 available to the public unless, of course, owner of the
 10 domain name wants to show who the -- wants the actual
 11 published owner and legal owner.
 12 **Q. So who is the legal owner?**
 13 A. The legal owner as it shows on our system is, in
 14 this case -- let me go back there quickly. Okay. In
 15 this case, or in this specific case, the legal owner as
 16 it appears in our system is the same as the published
 17 registrant, which is Agarix International.
 18 **Q. Okay. What's the -- okay. And the address is a**
 19 **foreign address, right, it's not a --**
 20 A. Yeah, it's a foreign address in Brazil.
 21 **Q. And the contact e-mail is gotto@takesun.com.br?**
 22 A. Uhm, let me just make sure that that's it. Just
 23 a moment. That is correct.
 24 **Q. Okay. Now, the legal -- does the registrant, as**
 25 **you have just discussed, have any authority or ability to**

14

1 **control or alter the content on the domain?**
 2 A. If that person has access to the account control
 3 panel and entering the user name and the password for the
 4 account, yes, they can change contact information,
 5 billing information, anything related to the account. As
 6 long as they provide the password for it, they are, they
 7 are eligible to make any changes on that.
 8 **Q. Okay. The password and user name, is there a**
 9 **PIN number as well?**
 10 A. No. It's just a user name and a password.
 11 **Q. Okay. And is that held by the legal owner?**
 12 A. Not necessarily. The legal owner is entitled to
 13 know that information. And because a lot of times people
 14 that register domain names, they have their Web person or
 15 their Web administrator or their Web master, they just
 16 have them handle their website and domain registration
 17 and -- but if they are the ones, the Web master
 18 indicates -- it will have the password and the user name
 19 of the account, but they are not the legal owner. But if
 20 they don't have that, they are entitled to request it and
 21 provided that they authenticate themselves as the owner
 22 of the domain name, we can provide that information to
 23 them.
 24 **Q. Okay. Do your records reflect who paid for this**
 25 **domain?**

15

1 A. Uhm, no. We show the charge to -- through a
 2 credit card for the rental of the domain name, but we
 3 don't have exactly, right off the record, we don't have
 4 the name on the credit card. We have the credit card
 5 number and all that stuff, but we don't have the actual
 6 account holder for the credit card or the bank. We have
 7 credit card type, we can have access probably to the
 8 expiration date on the card, but that's about it. We
 9 don't show exactly who specifically went and paid for the
 10 account or for the domain name.
 11 **Q. Okay. Who -- what entity or person in this case**
 12 **of Agaricus.net domain possesses the user name and**
 13 **password?**
 14 A. In this case, the administrative contact will be
 15 the one that has the password and the user name. The
 16 administrative contact in this case is listed as George
 17 Otto.
 18 **Q. Okay.**
 19 A. So if by any chance he would have forgotten what
 20 the password and the user name are, he could call and
 21 have us e-mail that to the e-mail address that we have on
 22 record.
 23 **Q. Okay. So do your records reflect that George**
 24 **Otto has always had the user name and password?**
 25 A. Hmm. No, not really. It isn't possible to know

16

1 who exactly has the user name and password because, in
 2 this case, George Otto could have submitted that to
 3 someone else, an employee, coworkers, whatever the case
 4 is. So there isn't really a way for us to know who
 5 possesses that information, you know, for sure.
 6 In this case, we assume that George Otto is the
 7 only one that has the user name and password because he's
 8 the one that set up the administrative contact and
 9 technical and billing contact. So there isn't -- I can't
 10 assure that he's the only one that has the information.
 11 **Q. Okay. Thank you. I'm going to give you a for**
 12 **instance here; okay?**
 13 A. Uh-huh (affirmative).
 14 **Q. If I, Matthew Van Horn, called up your company**
 15 **and wanted to buy a domain --**
 16 A. Uh-huh (affirmative).
 17 **Q. -- I gave you the credit card number, I paid for**
 18 **it, I would be the one who is issued the user name and**
 19 **password; right?**
 20 A. I'm not exactly -- well, I guess you mean by
 21 buying a domain name, do you mean registering a domain
 22 name or buying an existing domain name?
 23 **Q. Registering a domain.**
 24 A. They are different from each other.
 25 **Q. Well, I don't know what that means, but --**

1 A. For instance, if you as a lawyer want to
 2 register a domain name or want to get a domain name for
 3 your law firm. You contact us wanting to get or to
 4 register a domain name for your law firm, you can do so
 5 and we -- you can either do it on our website, search for
 6 a domain name that you like for your law firm. If it's
 7 available, you can register it online or we can do it for
 8 you over the phone. Whatever the case is the process is
 9 the same. We basically ask you for name, contact
 10 information, e-mail address, and we take your billing
 11 information. And when -- in the process of registering
 12 the domain name, we ask you for a user and password for
 13 you to use to access your account and manage it. That
 14 user name and password you provide to us. And if by any
 15 chance you forget what it is, we just e-mail it to the
 16 e-mail address you provide us. But when you register a
 17 domain name, you provide us what you want to use as user
 18 name and password for the account.

19 **Q. At this time during the process, do I tell you**
 20 **who I want the registrant to be?**

21 A. Yes. You can, you can, for instance, you can
 22 register a domain name and set yourself as the legal
 23 owner, or you can have the company or your law firm be
 24 listed as the legal owner, or, you know, you can have
 25 whoever you want, you know --

1 **Q. Okay.**

2 A. -- set as the legal owner.

3 **Q. But the legal owner is not shown to the public;**
 4 **right?**

5 A. No.

6 **Q. Okay. So, for instance, following your example,**
 7 **I could, I could call you, buy a domain for my website**
 8 **and my brother, I could identify him as the registrant;**
 9 **correct? That is correct?**

10 A. That is correct, yes. When you register a
 11 domain name by default, whoever the administrative
 12 contact is will show as the administrative, technical,
 13 billing and/or zone contact, which is public register.

14 **Q. Okay.**

15 A. Then after you're done with the registration,
 16 there is an option in our system, you can go and specify
 17 each contact separately. You can have one person listed
 18 as the administrative and billing contact, and a totally
 19 different person listed as the organizational or
 20 registrant and technical contact.

21 **Q. Okay. And specifically with this example, if I**
 22 **called you and set up one for my law firm and paid for**
 23 **it, but became the legal owner, obtained my user name and**
 24 **domain name, I could identify my brother as the**
 25 **registrant, which is shown to the public, and I could put**

1 **his address and his e-mail as a contact?**

2 A. That is correct.

3 **Q. Okay. Secondly, with the second category, on**
 4 **the document administrative contact, technical contact**
 5 **and zone contact, I could also put my brother or any**
 6 **third party there as -- just like the registrant. I**
 7 **could put my brother or any third party there as the --**
 8 **and put their name and their contact information and**
 9 **their e-mail; is that correct?**

10 A. That is correct.

11 MR. VAN HORN: Okay. I don't have any more
 12 questions.

13 MS. BOLTON: Okay. I have some questions,
 14 Pablo. This is Barbara Bolton from the FTC.

15 THE WITNESS: Okay.

16 EXAMINATION

17 BY MS. BOLTON:

18 **Q. Now, is the document that you sent to Matthew on**
 19 **4/29 the same identical information as to what you have**
 20 **currently in the database?**

21 A. I believe so. Let me double-check and confirm
 22 that. I haven't seen any changes as far as the contact
 23 information on the domain since I sent this document, so
 24 I would say yes, the information is identical as what we
 25 currently have in the system.

1 **Q. All right. Are you looking at the two side by**
 2 **side, what you sent and what you have in there now, or**
 3 **are you just guessing?**

4 A. No, I'm looking at the account right now. And I
 5 don't see any changes. Everything looks identical.

6 **Q. Okay. Now, we're just talking about the**
 7 **registration of a domain?**

8 A. Uh-huh (affirmative).

9 **Q. If you actually set up a Website using that**
 10 **domain name, do you have any control over that, over who**
 11 **controls that website?**

12 A. I'm sorry. Can you repeat the question, please?

13 **Q. Yeah. This document just pertains to the**
 14 **registration of a domain; is that correct?**

15 A. That is correct.

16 **Q. All right. Now, if I were to set up a website**
 17 **using that domain name --**

18 A. Uh-huh (affirmative).

19 **Q. -- what is on this paper doesn't guarantee that**
 20 **the same person that owns this domain name is the person**
 21 **that's controlling that Website?**

22 A. Exactly. The Website and the domain name are
 23 two separate different things. You can create a Website
 24 and name it Agaricus.net as a Website name, but does not
 25 necessarily have the domain name to attach to it. So you

| | |
|--|--|
| 21 | 23 |
| <p>1 can have a Webmaster build a website around a domain 2 name, but if you don't have access or don't have the 3 domain name, you won't be able to use it for that 4 Website. I'm not sure if I'm making myself clear. 5 Q. So, in other words, somebody else couldn't come 6 in and create a Website on a domain name that is not 7 theirs; is that correct? 8 A. Create a domain name? 9 Q. Okay. Let's say, let's say I wanted to set up a 10 Website named Agaricus.net. 11 A. Uh-huh (affirmative). 12 Q. And I don't own, I don't own that. I don't own 13 the domain name. I'm not the registrant. Am I 14 prohibited from doing that? How would I be blocked from 15 doing that? 16 A. Well, like I said, you can build a Website and 17 as a Website title you can just, you can use Agaricus or 18 Agaricus.net, but if you don't have access to the domain 19 name or if you don't own the domain, you would have no 20 way to access the domain account. You won't be able to 21 link that domain name with the Website you built for it. 22 So if someone, for instance, if you would build 23 a Website for Agaricus.net and wanted to link that 24 Website with the domain name and you don't have 25 credentials to enter our system and make such changes,</p> | <p>1 you won't be able to note it, because it's just, it's all 2 like numbers. 3 MR. VAN HORN: Can I ask you this? Can you note 4 from your log who made the change or what e-mail address 5 the directive came from to make the change? 6 THE WITNESS: Yeah. Actually, I can send you 7 where -- the IP address where whoever made the changes is 8 connected from. However, since it's been a while since 9 the changes were made, I'm not sure if they are still 10 using the same IP, especially if they are on Dynamic DRS. 11 MR. VAN HORN: If you can do that, that would be 12 a great help. 13 THE WITNESS: I'll go ahead and put that on. 14 I'll just add a second page to the document basically 15 explaining when the last time that the records of those 16 domain names were updated, the address where whoever made 17 the changes are connected from and the cover head, the 18 cover letter for the document, basically stating when the 19 document was generated. 20 MR. VAN HORN: Okay. That's perfect. Pablo? 21 THE WITNESS: Yes, I'm here. 22 MR. VAN HORN: Well, hold on. 23 MS. BOLTON: He's got to certify it. 24 THE WITNESS: I'm sorry. You're breaking up. 25 MR. VAN HORN: No, stand by.</p> |
| 22 | 24 |
| <p>1 you won't be able to. 2 MS. BOLTON: Okay. That's all I have. 3 MR. VAN HORN: Pablo, we really appreciate your 4 help today. 5 THE WITNESS: Okay. No worries. If anything 6 else comes up, I'll be more than happy to assist you. 7 Again, I'm here to 2:00 Pacific. So if anything else 8 comes up, feel free to give me a call; okay? 9 MR. VAN HORN: Hopefully we'll stay out of your 10 hair. 11 MS. BOLTON: Pablo, this is Barbara again. Are 12 you sending -- what documents are you going to be sending 13 in compliance with this? Are you going to send us a log 14 of the Web changes? 15 THE WITNESS: I can do so. However, I don't 16 think you'll be able to use them like for anything 17 because the log that we have does not reflect the changes 18 that were made, like in terms of who, who the person was 19 before it and after the changes. Like, everything in our 20 logs is just -- it's just like a code that shows change, 21 but it doesn't show -- if Matthew was the administrator 22 of the domain name before the change, and then afterwards 23 you were the administrator of the domain name, we won't 24 be able to know that. This is just an example that I'm 25 using. We won't be able to know that, to know that or</p> | <p>1 THE WITNESS: So would it be better -- 2 MR. VAN HORN: Pablo, stand by. I'm reading the 3 rule here to figure out exactly how you need to respond 4 to this thing. 5 THE WITNESS: Oh, okay. 6 MR. VAN HORN: Hold on. 7 THE WITNESS: Sure. 8 MR. VAN HORN: Hey, Pablo. 9 THE WITNESS: Yes. 10 MR. VAN HORN: That letter, that little 11 transmittal letter, where you're saying that you're 12 sending this responsive of the, you know, responsive to 13 the Subpoena. 14 THE WITNESS: Uh-huh (affirmative). 15 MR. VAN HORN: I should suggest some language. 16 MS. BOLTON: Just say under penalty of perjury. 17 It's not like a declaration, but it's a -- yeah. 18 MR. VAN HORN: I provide this information under 19 penalty of perjury? 20 MS. BOLTON: Or he can just say I swear the 21 truth and accuracy of this information under penalty of 22 perjury. 23 MR. VAN HORN: Pablo, you may just want to jot 24 this down, but you know the bottom of your transmittal 25 letter?</p> |

25

1 THE WITNESS: Uh-huh (affirmative).
 2 MR. VAN HORN: Just say -- just write out where
 3 you would sign it, where you would be signing off on it.
 4 Just write, I swear to the truthfulness of this
 5 information and then sign it. And if you can, I don't
 6 know if you're downtown San Diego or whatever, but if you
 7 can get that notarized. If you can get your signature
 8 notarized. Is that too much?
 9 THE WITNESS: So let me see. You need me at the
 10 bottom before my signature, you need me to include, I
 11 swear?
 12 MR. VAN HORN: I swear to the accuracy and
 13 truthfulness of this information. Is that fair? Does
 14 that work, Barbara?
 15 MS. BOLTON: Why not just go to their legal
 16 department.
 17 THE WITNESS: All right.
 18 MR. VAN HORN: Do y'all have an in-house lawyer?
 19 THE WITNESS: We do, however, they are not in
 20 our office.
 21 MR. VAN HORN: You have outside counsel. I hear
 22 you. Hey, just put on the Subpoena -- I mean, just put
 23 on the letter, just say I swear -- are you going to write
 24 this down? You ready?
 25 THE WITNESS: Yes. I'm writing it down.

27

1 CERTIFICATION OF REPORTER
 2 DOCKET/FILE NUMBER: 9330
 3 CASE TITLE: GEMTRONICS, INC., and WILLIAM H. ISELY
 4 I, HEREBY CERTIFY that the transcript contained
 5 herein is a full and accurate transcript of the notes
 6 taken by me at the telephonic unsworn statement on the
 7 above cause to the best of my knowledge and belief.
 8 DATED: February 11, 2009
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 10
 11 _____
 12 MARY K. HUTH-STEPP, RPR
 13 Notary Public Number 20042390053
 14 State of North Carolina
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1 MR. VAN HORN: I swear to the truthfulness of
 2 this information and then have that -- then sign it in
 3 front of a notary.
 4 THE WITNESS: Okay.
 5 MR. VAN HORN: So don't sign it and then go to
 6 your notary. Just walk across the street to your bank or
 7 whatever you got down there.
 8 THE WITNESS: Yeah, I will do that.
 9 MR. VAN HORN: All right, man. Again, I really
 10 appreciate your time.
 11 THE WITNESS: Okay. No worries.
 12 MR. VAN HORN: Say your address on the record.
 13 Hey, Pablo. Are you at -- you're at 1484 Danielson
 14 Street?
 15 THE WITNESS: That is correct.
 16 MR. VAN HORN: All right. That's fine.
 17 (Unsworn statement concluded at 3:52 p.m.)
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1 CERTIFICATE OF WITNESS
 2 I hereby certify that I have read and examined the
 3 foregoing transcript, and the same is a true and accurate
 4 record of the testimony given by me.
 5 Any additions or corrections that I feel are
 6 necessary, I will attach on a separate sheet of paper to
 7 the original transcript.
 8
 9 _____
 10 PABLO VELASCO
 11
 12 I hereby certify that the individual representing
 13 himself to be the above-named individual, appeared before
 14 me this
 15 _____
 16 day of _____, _____, and
 17 executed the above certificate in my presence.
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1 WITNESS: PABLO VELASCO
2 DATE: FEBRUARY 4, 2009
3 CASE: GEMTRONICS, INC., ET AL.

4
5 Please note any errors and the corrections thereof on
6 this errata sheet. The rules require a reason for
7 any change or correction. It may be general such as,
8 "To correct stenographic error," or, "To clarify the
9 record," or, "To conform with the facts."

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11 PAGE LINE CORRECTION REASON FOR CHANGE
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