

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

RICHELL USA, INC.,

Plaintiff,

Case No. 4:18-cv-00847-ALM

vs.

CINMAR, LLC and FRONTGATE  
MARKETING, INC.,

Defendants.

**RICHELL USA, INC.'S RESPONSES AND OBJECTIONS TO DEFENDANTS' FIRST  
SET OF REQUESTS FOR ADMISSION (NOS. 1-18)**

Pursuant to Fed. R. Civ. P. 26 and 36, Plaintiff Richell USA, Inc. ("Richell or Plaintiff"), by and through its attorneys, hereby responds and objects to Defendants Cinmar, LLC and Frontgate Marketing, Inc. (collectively "Defendants") First Set of Requests for Admission as follows:

**GENERAL OBJECTIONS**

1. Richell objects to each Request, each of Defendants' Definitions, and each of Defendants' Instructions to the extent it seeks to impose any requirements or obligations on Richell in addition to or different from those imposed by the Federal Rules of Civil Procedure, the Local Rules of this District, any applicable orders of this Court, or any stipulation or agreement of the parties.

2. Richell objects to each Request, each of Defendants' Definitions, and each of Defendants' Instructions to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege or immunity.

Inadvertent production or disclosure of any such information shall not be deemed a waiver of any protection, privilege or immunity.

3. Richell objects to each Request as premature to the extent it is inconsistent with any scheduling or other order issued by the Court.

4. Richell objects to each Request to the extent it purports to attribute any special or unusual meaning to any technical terms or phrases.

5. Richell objects to each Request as unduly burdensome to the extent it seeks information that is not relevant to any party's claim or defense and is not proportional to the needs of the case.

6. Richell objects to each Request to the extent it calls for a legal conclusion.

7. By responding to any of Defendants' Requests for Admission, Richell does not waive any objection that may be applicable to: (a) the use, for any purpose, by Defendants of any information provided in response; or (b) the admissibility, relevance, or materiality of any of the information to any issue in this case.

8. Each and every General Objection shall be deemed to be incorporated in full into each of the individual responses set forth below. Any specific objections to any Requests are made as addition or supplement to the General Objections, not as a replacement for them.

9. Discovery is ongoing in this action, and Richell's investigation into the parties' claims and defenses continues. Richell therefore objects and responds to these Requests based upon the information in their possession after diligent inquiry at the time of preparation of these responses.

Richell reserves the right to amend, supplement, modify, and/or correct its objections and responses as additional information becomes available to Richell in the course of its investigation and as discovery in this case progresses.

### **SPECIFIC RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION**

Richell hereby incorporates its General Objections set forth above into its Specific Response and Objections set forth below.

#### **REQUEST FOR ADMISSION NO. 1:**

Admit that Richell was aware that the Richell Catalog existed before November 16, 2004.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the terms “aware” and “existed” are vague, ambiguous, overly broad, and unduly burdensome.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell admits this Request.

#### **REQUEST FOR ADMISSION NO. 2:**

Admit that Richell was aware that the Richell Catalog was Distributed to Third Parties before November 16, 2004.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the term “aware” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the

importance of the issues at stake in the action, the amount in controversy, the parties' relative access to information, the parties' resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery. Richell objects to this Request to the extent the term "Distributed" calls for a legal conclusion. Richell objects to this Request to the extent Defendants' definitions of "Richell Catalog" and "Distributed" are in conflict and therefore ambiguous.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell admits this Request.

**REQUEST FOR ADMISSION NO. 3:**

Admit that more than 50 copies of the Richell Catalog were Distributed to Third Parties before November 16, 2004 without any obligation of confidentiality.

**RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this Request to the extent it seeks information not relevant to any party's claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to information, the parties' resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery. Richell objects to this Request to the extent the terms "Distributed" and "obligation of confidentiality" call for a legal conclusion. Richell objects to this Request to the extent the phrase "obligation of confidentiality" is vague, ambiguous, overly broad, and unduly burdensome. Richell objects to this Request to the extent Defendants' definitions of "Richell Catalog" and "Distributed" are in conflict and therefore ambiguous.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 4:**

Admit that the Richell Catalog was intended to advertise the products depicted therein for sale to Third Parties.

**RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrase “intended to advertise” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to information, the parties’ resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 5:**

Admit that Richell was aware that the Richell Catalog was Distributed to at least one Third Party in the United States before November 16, 2004.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the term “aware” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to information, the parties’ resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery. Richell objects to this Request to the extent the term “Distributed” calls for a legal conclusion. Richell objects to this Request to the extent Defendants’ definitions of “Richell Catalog” and “Distributed” are in conflict and therefore ambiguous.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

#### **REQUEST FOR ADMISSION NO. 6:**

Admit that Third Parties in the United States purchased the “wooden circle” products depicted on the upper-left corner of the Richell Catalog page bearing Bates number RICHELL-0002292 before November 16, 2004.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrases “purchased” and “‘wooden circle’ products depicted on the upper-left corner of the Richell Catalog” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the

importance of the issues at stake in the action, the amount in controversy, the parties' relative access to information, the parties' resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 7:**

Admit that Richell sold the "wooden circle" products depicted on the upper-left corner of the Richell Catalog page bearing Bates number RICHELL-0002292 in the United States before November 16, 2004.

**RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrase "'wooden circle' products depicted on the upper-left corner of the Richell Catalog" is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party's claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to information, the parties' resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this

Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 8:**

Admit that Richell sold the “wooden low gate” products depicted on the upper-right corner of the Richell Catalog page bearing Bates number RICHELL-0002295 in the United States before November 16, 2004.

**RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrase ““wooden low gate’ products depicted on the upper-left corner of the Richell Catalog” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to information, the parties’ resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 9:**

Admit that the “wooden circle” products depicted on the upper-left corner of the Richell Catalog page bearing Bates number RICHELL-0002292 were sold in the United States before November 16, 2004.



#### **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrase “‘wooden circle’ products depicted on the upper-left corner of the Richell Catalog” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to information, the parties’ resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery. Richell also objects to this Request as duplicative of Request No. 7.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

#### **REQUEST FOR ADMISSION NO. 10:**

Admit that the “wooden low gate” products depicted on the upper-right corner of the Richell Catalog page bearing Bates number RICHELL-0002295 were sold in the United States before November 16, 2004.

#### **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to this request to the extent the phrase “‘wooden low gate’ products depicted on the upper-left corner of the Richell Catalog” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information not relevant to any party’s claim or defense or proportional to the needs of the case, considering the importance

of the issues at stake in the action, the amount in controversy, the parties' relative access to information, the parties' resources, the importance of the discovery in resolving the issues, and the burden and expense of the proposed discovery. Richell also objects to this Request as duplicative of Request No. 8.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell states that it does not have enough information to admit or deny this Request and on that basis denies it. Richell reserves the right to amend or supplement its response to this Request in accordance with the Federal Rules and Local Rules.

**REQUEST FOR ADMISSION NO. 11:**

Separately, for each of the patents asserted in this case, admit that an individual employed by Richell had a duty to disclose the page from the Richell Catalog depicting the "wooden circle" products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants' characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants' limit under the limits set forth in the Court's Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the term "'wooden circle' products" is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks

information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 12:**

Separately, for each of the patents asserted in this case, admit that an individual employed by Richell had a duty to disclose the page from the Richell Catalog depicting the “wooden low gate” products and bearing Bates number RICHELL-0002295 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the term “‘low wooden gate’ products” is vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 13:**

Separately, for each of the patents asserted in this case, admit that an individual employed by Richell considered whether to disclose the page from the Richell Catalog depicting the “wooden circle” products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases ““wooden circle’ products” and “considered whether to disclose” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege. Richell also objects to this Request to the extent the phrase “considered whether to disclose” is vague and ambiguous.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 14:**

Separately, for each of the patents asserted in this case, admit that an individual employed by Richell decided not to disclose the page from the Richell Catalog depicting the

“wooden circle” products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases “‘wooden circle’ products” and “decided not to disclose” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 15:**

Separately, for each of the patents asserted in this case, admit that Richell’s attorneys considered whether to disclose the page from the Richell Catalog depicting the “wooden circle” products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under

the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases “‘wooden circle’ products” and “considered whether to disclose” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 16:**

Separately, for each of the patents asserted in this case, admit that Richell’s attorneys decided not to disclose the page from the Richell Catalog depicting the “wooden circle” products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases “‘wooden circle’ products” and “not to disclose” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 17:**

Separately, for each of the patents asserted in this case, admit that an individual employed by one of Richell's affiliates considered whether Richell should disclose the page from the Richell Catalog depicting the "wooden circle" products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants' characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants' limit under the limits set forth in the Court's Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases "'wooden circle' products" and "consider whether Richell should disclose" are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.

**REQUEST FOR ADMISSION NO. 18:**

Separately, for each of the patents asserted in this case, admit that an individual employed by one of Richell's affiliates decided that Richell should not disclose the page from the

Richell Catalog depicting the “wooden circle” products and bearing Bates number RICHELL-0002292 to the United States Patent and Trademark Office during the prosecution of each patent.

**RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

In addition to its General Objections, which are incorporated herein by reference, Richell objects to Defendants’ characterization of this Request as one request because it contains multiple subparts. Each subpart of this Request should be counted towards Defendants’ limit under the limits set forth in the Court’s Order Governing Proceedings, Section I. Discovery Limitations. (Dkt. No. 13 at 4.) Richell further objects to this Request as seeking legal conclusions. Richell also objects to this Request to the extent the phrases “‘wooden circle’ products” and “should not disclose” are vague, ambiguous, overly broad, and unduly burdensome. Richell further objects to this Request to the extent it seeks information protected from discovery by the attorney-client privilege, attorney work-product doctrine, or any other applicable privilege.

To the extent that a response is required and subject to and without waiver of any of its objections, Richell denies this Request.



Dated: November 18, 2019

Respectfully submitted,  
FOLEY GARDERE  
FOLEY & LARDNER LLP

/s/ Michelle A. Moran

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**ATTORNEYS FOR PLAINTIFF RICHELL  
USA, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was electronically served on all  
counsel of record via e-mail on November 18, 2019.

/s/Michelle A. Moran  
Michelle A. Moran