

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION
CIVIL ACTION NO. 3:10-CV-74-H
(Electronically Filed)

SHAMROCK MARKETING, INC.

PLAINTIFF

v.

BRIDGESTONE BANDAG, LLC

DEFENDANT

PLAINTIFF'S AMENDED INITIAL DISCLOSURES

Pursuant to Fed.R.Civ.P. 26(a)(1) and this Court's Agreed Litigation Plan and Discovery Schedule, Plaintiff, Shamrock Marketing, Inc., provides the following Amended Initial Disclosures. The addresses and telephone numbers provided are based upon the last and best information which Plaintiff has.

I. PERSONS LIKELY TO HAVE DISCOVERABLE INFORMATION WHICH PLAINTIFF MAY USE TO SUPPORT ITS CLAIMS PURSUANT TO FED.R.CIV.P. 26(a)(1)(A)(i).

Christina Cortellessa
12328 West San Juan Avenue
Litchfield Park, AZ 85340
(602) 725-8028

Ms. Cortellessa may have discoverable information about her tenure as a sales and marketing person for Plaintiff; customer satisfaction with Plaintiff's envelope product; and the devastating effect of the Q-Fund on Plaintiff's sales and on competition in the marketplace.

Mark Emkes
7 Camel Back Court
Brentwood, TN 37027-8939
(615) 283-3092

Mr. Emkes may have discoverable information about the implementation of Defendant's Q-Fund program in 2007, including the reasons for said program and the anticipated effect on competition in the marketplace and meeting with Plaintiff in 2004.

Saul Solomom
2608 Barton Avenue
Nashville, TN 37212-4117
(615) 383-7152

Mr. Solomon may have discoverable information about the implementation of Defendant's Q-Fund program in 2007, including the reasons for said program and the anticipated effect on competition in the marketplace.

Kurt Danielson
1655 Preston Place
Brentwood, TN 37027-8660
(615) 372-0350

Mr. Danielson may have discoverable information concerning the market, product offerings, competition and competitors for the production, sale and purchase of replacement tires for medium and heavy trucks; the market, product offerings, competition and competitors for the production, sale and purchase of precured tread rubber; and communications with franchisees concerning Franchise Agreements.

John McErlane
2678 Tom Sawyer Road
Muscatine, IA 52761
(563) 262-1400

Mr. McErlane may have discoverable information about the implementation of Defendant's Q-Fund program in 2007, including the reasons for said program and the anticipated effect on competition in the marketplace.

Tim Chen
HNI Corporation
408 East Second Street
P.O. Box 1109
Muscatine, IA 52761-0071

Mr. Chen may have discoverable information concerning price increases of precured tread rubber from 2007 through 2010; the creation, objectives, benefits and implementation of the Q Fund; Bridgestone Bandag's commercial dealings with its franchisees and its franchise agreements with the franchisees; and communications with Shamrock Marketing, Inc.

Scott Damon
2611 Heather Glen Circle
Bettendorf, IA 52722
(563) 332-9771

Mr. Damon may have discoverable information concerning meetings with Plaintiff in 2000, price increases of precured treated rubber in 2007 and thereafter; the creation, objectives, benefits and implementation of the Q Fund; communications with its franchisees concerning Q Fund; Bridgestone Bandag's sale of precured tread rubber to its franchisees; the market, product offerings, competition and competitors for the production, sale and purchase of precured tread rubber; the market competition and competitors for the production, sale and purchase of replacement tires for medium and heavy trucks; Bridgestone Bandag's manufacture and sale of curing envelopes; and the curing envelope markets and competitors.

Clay Timmins
1933 Marden Crest
Muscatine, IA 52761
(563) 263-4421

Mr. Timmons may have discoverable information concerning price increases of precured tread rubber in 2007 and thereafter; Bridgestone Bandag's sale of precured tread rubber to its franchisees; the creation, objectives, benefits and implementation of the Q Fund; Bridgestone Bandag's franchise agreements as they relate to materials and specifications; Bridgestone Bandag's franchise agreements as they relate to materials and specifications; Bridgestone Bandag manuals and specifications for Bridgestone Bandag products, materials, equipment and processes; Bridgestone Bandag's manufacture and sale of curing envelopes; the curing envelope markets, product offerings, pricing and competitors.

Thad Perdue
Robbins LLC
2306 S. Wilson Dam Road
Muscle Shoals, AL 35611
(256) 383-5444

Mr. Perdue may have discoverable information concerning Robbins LLC's increase in sales of envelopes to Defendant after implementation of Defendant's Q-Fund and communications between Robbins, Myers Tire Supply and Defendant regarding market share.

Mike Poirier
1225 Old Spring Trail
Arrington, TN 37014-9128
(615) 395-8058

Mr. Poirier may have discoverable information concerning Defendant's "Alliance Excellence" program, the development and operation of Defendant's Q-Fund program and discussions with Plaintiff regarding the Q Fund program.

Scott Gately
353 E. Tucker Road
Pottsville, AR 72858-9105
(479) 858-6106

Mr. Gately may have discoverable information concerning Plaintiff's envelope sales program and the development and implementation of Defendant's Q-Fund program.

Chris Hoffman
Address and telephone number unknown

Mr. Hoffman may have discoverable information concerning the development and implementation of Defendant's Q-Fund program.

Tom Trego
Address and telephone number unknown

Mr. Trego may have discoverable information concerning the development and implementation of Defendant's Q-Fund program.

Kim James
2905 N. Highway 61
Muscatine, IA 52761-5809
(562) 262-1400

James may have discoverable information concerning the development and implementation of Defendant's Q-Fund program.

Doug Conley, Sr.
Shamrock Marketing Inc.
11206 Bluegrass Parkway
Louisville, KY 40299
(502) 266-7403

Mr. Conley may have discoverable information concerning the effect of Defendant's Q-Fund on Plaintiff's business and on competition in the marketplace, as well as the facts in the Complaint and meetings with Defendant's representatives.

Janice Conley
Shamrock Marketing Inc.
11206 Bluegrass Parkway
Louisville, KY 40299
(502) 266-7403

Ms. Conley may have discoverable information concerning the effect of Defendant's Q-Fund on Plaintiff's business and on competition in the marketplace, as well as the facts in the Complaint.

Doug Conley, Jr.
Shamrock Marketing Inc.
11206 Bluegrass Parkway
Louisville, KY 40299
(502) 266-7403

Mr. Conley may have discoverable information concerning the effect of Defendant's Q-Fund on Plaintiff's business and on competition in the marketplace, as well as the facts in the Complaint and meetings with Defendant's representatives.

Tim Puck
Snider Tire
200 E. Meadowview Road
Greensboro, NC 27416-6046
(336) 691-5499

Mr. Puck may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Scott Carroll
Cross-Midwest Tire Co.
1010 S. 12th Street
Kansas City, KS 66105
(913) 621-0996

Mr. Carroll may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Josh Brown
Southern Tire Mart/Columbia Retread
529 Industrial Park Road
Columbia, MS 39429
(601) 424-3243

Mr. Brown may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Ken Nolen
White Tire Distributors, Inc.
1627 Willis Road
Richmond, VA 23237
(804) 743-9707

Mr. Nolen may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Denver White
Southeastern Commercial Tire, Inc.
2212 Newton Road
Albany, GA 31706
(229) 888-3300

Mr. White may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Sandra Hughes
Good Tire Service, Inc.
6 Troy Hill Road
Kittanning, PA 16201
(724) 543-7021

Ms. Hughes may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Vernon L. Zarling, Jr.
County Road 10 NE
Saint Charles, MN 55972-2045
(507) 534-3017

Mr. Zarling may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Jose Holmes
Jim Whitehead Tire & Retread
1920 Cherry Road
Augusta, GA 30906
(706) 738-5126

Mr. Holmes may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Timothy Crowder
Tire Sales & Service, Inc.
P.O. Box 104
Fayetteville, NC 28301
(910) 484-1066

Mr. Crowder may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Derek Barlow
6875 Speedway Blvd., Unit 105
North Las Vegas, NV 89115
(702) 651-6604

Mr. Barlow may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Aaron Snodgrass
Best One Tire
810 Neville Street
Beckley, WV 25801
(304) 253-3305

Mr. Snodgrass may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Buck Cool
Belle Tire Distributors, Inc.
205 Oak Leaf Oval
Oakwood Village, OH 44146
(440) 735-0800

Mr. Cool may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Terry Lewis
Premier Bandag, Inc.
P.O. Box 160
Morehead, KY 40351
(606) 784-8868

Mr. Lewis may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Bob Uteg
Belle Tire Distributor's Inc.
1000 Enterprise Drive
Allen Park, MI 48101
(586) 615-6739

Mr. Uteg may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Cliff Bush
Commercial Truck & Trailer Sales
P.O. Box 67
Auburndale, FL 33823-0067
(863) 967-1101

Mr. Bush may have discoverable information concerning his company's purchase of envelopes from Plaintiff prior to Defendant's institution of its Q-Fund program and after institution of that program, and the relative quality of Plaintiff's envelopes compared to other envelope suppliers.

Other franchisees and dealers of Bridgestone Bandag, LLC, who purchased envelopes from Plaintiff prior to and after implementation of Defendant's Q-Fund program, as reflected in documents produced by Plaintiff in response to Defendant's First Request for Production of Documents, No. 17 may also have discoverable information concerning their purchases of envelopes from Plaintiff prior to implementation of the Q-Fund program by Defendant; the quality of Plaintiff's envelopes compared to those supplied by Defendant and others; and their cessation or curtailing of envelope purchases from Plaintiff as a result of Defendant's implementation of the Q-Fund program. Defendant should have more current information than Plaintiff concerning their addresses and phone numbers.

II. DOCUMENTS, ELECTRONICALLY STORED INFORMATION AND TANGIBLE THINGS THAT PLAINTIFF POSSESSES AND MAY USE TO SUPPORT ITS CLAIMS, PURSUANT TO FED.R.CIV.P. 26 (a)(1)(A)(ii).

Business records reflecting sales to Bandag franchisees and profit therefrom for the time periods before and after the institution of the Q-Fund. Defendant

has made a document request and such responsive documents as are in Plaintiff's possession or control have been produced or made available.

III. COMPUTATION OF DAMAGES CLAIMED BY PLAINTIFF, PURSUANT TO FED.R.CIV.P. 26(a)(1)(A)(iii).

Shamrock's decline in profit attributable to sales to Bandag dealers for the first year following institution of the Q-Fund was approximately \$440,000. The range of treble damages was estimated prior to the filing of this action as being approximately \$3.9 million to \$10.5 million. Plaintiff has provided certain financial records to Defendant reflecting its decrease in sales and profits. Plaintiff expects to revise and finalize its damage calculation using actual sales and profit experience since the filing of this action on or before the November 1, 2011 deadline for identifying expert witnesses.

IV. INSURANCE AGREEMENTS, PURSUANT TO FED.R.CIV.P. 26(a)(1)(A)(iv).

Not applicable

Respectfully submitted,

/s/ M. Stephen Pitt _____
M. Stephen Pitt
Merrill S. Schell
WYATT, TARRANT & COMBS, LLP
2800 PNC Plaza
500 W. Jefferson St.
Louisville, Kentucky 40202
502.589.5235

Counsel for Plaintiff, Shamrock Marketing,
Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of September, 2011, a true and correct copy of the foregoing was filed with the Western District of Kentucky CM/ECF system, which will send electronic notice of filing to:

- **O. Scott Barber , III**
sbarber@stites.com
- **Philip W. Collier**
pcollier@stites.com
- **Michael M. Denbow**
mdenbow@stites.com
- **Richard A. Vance**
rvance@stites.com

/s/M. Stephen Pitt

M. Stephen Pitt

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