

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: September 19, 2013

**Opposition No. 91198552**

Raising Cane's USA, L.L.C.

v.

Fifty-Six Hope Road Music  
Limited

**Cancellation No. 92053461**

Fifty-Six Hope Road Music  
Limited

v.

Raising Cane's USA, L.L.C.

**Andrew P. Baxley, Interlocutory Attorney:**

On August 20, 2013, Raising Cane's USA, L.L.C. ("Raising Cane"), opposer in Opposition No. 91198552 and respondent in Cancellation No. 92053461 filed a motion to extend discovery for thirty days for the limited purpose of taking discovery depositions of applicant/petitioner Fifty-Six Hope Road Music Limited's ("Fifty-Six") witnesses Michael Conley and its witness(es) under Fed. R. Civ. P. 30(b)(6).<sup>1</sup> In response, Fifty-Six states that it "does not oppose" Raising Cane's motion.

---

<sup>1</sup> A party should not seek an extension through a date certain in an unconsented motion to extend. The better practice is to seek

In view thereof, Raising Cane's motion to extend is granted, as modified by this order. The discovery period is extended through October 18, 2013 for the limited purpose of taking the Conley and Rule 30(b)(6) discovery depositions.

Remaining dates are reset as follows:<sup>2</sup>

Raising Cane's pretrial disclosures due:	December 2, 2013
Raising Cane's 30-day testimony period as plaintiff in the opposition to close:	January 16, 2014

Fifty-Six's pretrial disclosures due:	January 31, 2014
---------------------------------------	------------------

Fifty-Six's 30-day testimony period as defendant in the opposition and as plaintiff in the cancellation to close:	March 17, 2014
---	----------------

Raising Cane's pretrial disclosures for rebuttal in the opposition and as defendant in the cancellation due:	April 1, 2014
--	---------------

Raising Cane's 30-day testimony period as defendant in the cancellation and for rebuttal as plaintiff in the opposition to close:	May 16, 2014
---	--------------

Fifty-Six's rebuttal disclosures as plaintiff in the cancellation due:	May 31, 2014
--	--------------

---

an extension of a specified duration to run from the date of the Board's decision. See TBMP Section 509.02 (3d ed. rev. 2 2013).

Under the circumstances, Raising Cane should have contacted the Board attorney assigned to this case immediately upon filing of the motion to extend so that the Board could have made arrangements to decide that motion promptly by telephone conference. See Trademark Rule 2.120(i)(1); TBMP Section 502.06(a).

<sup>2</sup> The proposed schedule in Raising Cane's motion does not reflect that the parties are in opposite postures and that accordingly there is an additional testimony period and an additional briefing period in these consolidated proceedings. Because the parties are in opposite postures, a proposed schedule should be drafted as one would write a schedule in a proceeding with a counterclaim.

Fifty-Six's 15-day rebuttal testimony period as plaintiff in the cancellation to close: June 30, 2014

Brief for Raising Cane as plaintiff in the opposition due: August 29, 2014

Brief for Fifty-Six as defendant in the opposition and as plaintiff in the cancellation due: September 28, 2014

Brief for Raising Cane as defendant in the cancellation and reply brief, if any, as plaintiff in the opposition due: October 28, 2014

Reply brief, if any, for Fifty-Six as plaintiff in the cancellation due: November 12, 2014

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.