

ESTTA Tracking number: **ESTTA595494**

Filing date: **03/31/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202984
Party	Plaintiff Hachette Filipacchi Presse
Correspondence Address	SUSAN UPTON DOUGLASS FROSS ZELNICK LEHRMAN & ZISSU PC 866 UNITED NATIONS PLAZA NEW YORK, NY 10017 UNITED STATES mc@fzlz.com
Submission	Testimony For Plaintiff
Filer's Name	Michael Chiappetta
Filer's e-mail	mc@fzlz.com
Signature	/Michael Chiappetta/
Date	03/31/2014
Attachments	Notice of Filing of Testimony Deposition (F1423033x96B9E).pdf(2391414 bytes )



**CERTIFICATE OF SERVICE**

The undersigned, counsel for Hachette Filipacchi Presse hereby certifies under penalty of perjury that I caused a true and correct copy of the attached NOTICE OF FILING OF CERTIFIED DEPOSITION TRANSCRIPT to be sent by U.S. Mail on March 31, 2014 to Applicant, Lauren R. Schneider, at the following address of record for Applicant:

Lauren R. Schneider  
465 North Summit Avenue  
Pasadena, Ca 91103 3719  
elle.schneider@gmail.com

By:

  
Michael Chiappetta

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

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----  
In the matter of Application

Serial No. 851240605

Published in the Official Gazette

On June 21, 2011

Mark: ELLE SCHNEIDER

-----  
HACHETTE FILIPACCHI PRESSE,

Opposer,

-against-

No. 91202984

LAUREN R. SCHNEIDER,

Applicant.  
-----

DEPOSITION OF LAUREN SCHNEIDER

New York, New York

Thursday, December 26, 2013

Reported by:  
Yaffa Kaplan  
JOB NO. 59314

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

December 26, 2013

5:07 p.m.

Deposition of LAUREN SCHNEIDER, held  
at the offices of Fross Zelnick Lehrman &  
Zissu, 866 United Nations Plaza, New York,  
New York, pursuant to Notice, before Yaffa  
Kaplan, a Notary Public of the State of New  
York.

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

A P P E A R A N C E S :

FROSS ZELNICK LEHRMAN & ZISSU PC

Attorneys for Opposer

866 United Nations Plaza at First Avenue

& 48th Street

New York, New York 10017

BY: MICHAEL CHIAPPETTA, ESQ.

1 L. Schneider

2 L A U R E N S C H N E I D E R , called as a  
3 witness, having been duly sworn by a Notary  
4 Public, was examined and testified as  
5 follows:

6 EXAMINATION BY

7 MR. CHIAPPETTA:

8 Q. What is your name and address?

9 A. Lauren Schneider, 465 North Summit  
10 Avenue, Pasadena, California 91103.

11 (Exhibit 1, Notice of deposition, marked  
12 for identification, as of this date.)

13 Q. Do you go by Lauren or Elle?

14 A. It depends on the situation, but most  
15 people call me Lauren.

16 Q. Would you prefer I call you Lauren?

17 A. I don't care.

18 Q. Have you ever been deposed before?

19 A. No.

20 Q. So I will go through some of the basics.

21 I will be asking questions and and you will be  
22 giving answers and the court reporter will be  
23 taking down those answers, my questions and your  
24 answers. She can't take down two voices at once so  
25 let's do our best not to talk over one another.

1 L. Schneider

2 Make sure that your responses are verbal  
3 responses as opposed to pointing or using hand  
4 gestures which the court reporter can't transcribe.  
5 I don't think this is going to be that long such  
6 that we will need breaks, but if you would like to  
7 take a break at any point in time, just tell me and  
8 that's fine and I may ask you to finish answering  
9 the question but that's about it.

10 Is there any reason you can't give your  
11 most accurate and best testimony here today?

12 A. No.

13 Q. And let me finish the question even if  
14 you know what I am about to ask. Let me finish the  
15 question. It helps for the court reporter before  
16 you answer.

17 Do you have an attorney with you here  
18 today?

19 A. No.

20 Q. Do you have an attorney in this case?

21 A. No.

22 Q. I asked you before if you prefer Elle or  
23 Lauren. Can you tell me briefly when you use the  
24 name "Lauren" and when you use the name "Elle"?

25 A. Generally, in a personal relationship I

1 L. Schneider

2 use Lauren, but when people are introduced to me  
3 kind of as a d/b/a I go by Elle, but sometimes that  
4 will turn into Lauren depending on the personalness  
5 of the relationship.

6 Q. So is it fair to say the closer you are  
7 with somebody, the more likely it would be that  
8 they would use Lauren?

9 A. Yes.

10 Q. How did you come to start using Elle  
11 Schneider as your --

12 A. When I was in college, there was a  
13 couple of different things that came together at  
14 the same time. One was that there were multiple  
15 Laurens living on the same dorm room floor as me  
16 and it became confusing, so each of us assumed a  
17 nickname. One became Laur. I became Elle. The  
18 designation that the school also gave for e-mail  
19 addresses was that I was LSchnei@USC, and so that  
20 kind of just came out of that.

21 Q. So when did you start using the name?

22 A. I started using it spelled out in  
23 probably 2005, 2006. I think the first piece of  
24 writing that it was on was probably 2006. A couple  
25 of people started calling me that as a nickname in

1 L. Schneider  
2 high school because I went by the initials  
3 sometimes but only in the context of writing  
4 because it's better for writing to not have a  
5 gendered first name.

6 Q. Okay. So am I understanding correctly  
7 that prior to 2005, 2006, you used the letter "L",  
8 period, Schneider?

9 A. Yes, for one or two years.

10 Q. And you said in approximately 2005, 2006  
11 was the first time that you used E-L-L-E spelled  
12 out?

13 A. Yes.

14 Q. And what was the context of that use?

15 A. I was using it on my film stuff. I  
16 guess that's a broad answer. In credits for film  
17 projects.

18 Q. Do you remember when was the first time  
19 you did that?

20 A. It was probably with this film  
21 "Confession" that you have the information for  
22 there, but I can't remember offhand. It may have  
23 been a student project earlier in the year. That  
24 was during the summer so that was maybe July or  
25 August, but it probably was earlier than that.

1 L. Schneider

2 Q. Have you ever considered changing your  
3 name legally?

4 A. I have considered changing my name  
5 legally, but I have seen no reason to do so. I  
6 don't know what benefit it would bring me for the  
7 time being.

8 Q. So you have never taken any steps to  
9 change your name?

10 A. No.

11 Q. Correct?

12 A. I prefer to have a kind of d/b/a that is  
13 different from my legal name because that makes  
14 interfacing with the public a little bit easier.

15 Q. How is that?

16 A. Just because if someone were to look up  
17 my personal information, they would be less likely  
18 to find my personal information if the first name  
19 was not the legal name, like if the nickname was  
20 not the legal name.

21 Q. You mean people who know you in a  
22 business context would search for Elle and  
23 therefore wouldn't find your personal information  
24 pertaining to Lauren?

25 A. Exactly.

1 L. Schneider

2 Q. What is your profession?

3 A. I am a filmmaker and I guess I am also a  
4 camera designer.

5 Q. Anything else?

6 A. I wouldn't say so.

7 Q. What is your source of income?

8 A. Right now it's camera design. So I am  
9 the creative director of a camera company.

10 Q. What's the name of the company?

11 A. The company is called Cinemeridian.

12 Q. Are you an officer?

13 A. I am not an officer.

14 Q. Are you an owner?

15 A. I am a minor co-owner, but I don't think  
16 my stock has vested yet so until then I don't know  
17 if that really counts.

18 Q. Do you get paid a salary?

19 A. Yes.

20 Q. And how many employees are there in this  
21 company?

22 A. I think due to the nature of how it's  
23 set up right now, I may be the only employee  
24 because it's a partnership between multiple  
25 companies, but of this exact company I believe I am

1 L. Schneider

2 the only employee.

3 Q. You get paychecks?

4 A. Yes.

5 Q. And what's the name that appears on  
6 those paychecks?

7 A. The paychecks are either Lauren or Elle.  
8 It depends who is writing them out. If they are  
9 from my direct boss, I ask them to write them to  
10 Lauren, but the company will sometimes cut them as  
11 Elle because they -- I asked them to correct it but  
12 sometimes they don't.

13 Q. Did you fill out a W-2?

14 A. Yes.

15 Q. And what name did you put on that?

16 A. Lauren.

17 Q. Lauren?

18 A. Yes.

19 Q. Do you make money as a filmmaker?

20 A. I do.

21 Q. How do you make money as a filmmaker?

22 A. Typically as a cinematographer.  
23 Sometimes as a director.

24 Q. Do you have a company of your own?

25 A. I don't officially have a registered

1 L. Schneider  
2 company of my own. I have a production company,  
3 but it is not a legal entity of any kind.

4 Q. What's that called?

5 A. It's called Attention Soldier.

6 Q. Does Attention Soldier have a bank  
7 account?

8 A. It does not.

9 Q. Does it have any employees?

10 A. No. That will probably change if I am  
11 able to get registered. I have avoided doing any  
12 business -- how do I put it? I don't want to  
13 cement anything as far as branding and putting  
14 money out there until I know I have a mark on  
15 something, so while I have been making my primary  
16 income as a camera designer, I have tried to stay  
17 away from putting anything into the Attention  
18 Soldier stuff because I would prefer to d/b/a under  
19 Elle Schneider.

20 Q. So if you obtain a registration for Elle  
21 Schneider, what would you do with the Attention  
22 Soldier name?

23 A. I don't know. I probably would use it  
24 less frequently. Part of the reason that I  
25 continue to use it is because the web registration

1 L. Schneider

2 for Elle Schneider has been squatted, which is one  
3 of the reasons that I sought the mark in the first  
4 place, and if I had that domain with which to  
5 publicize myself, which is my probably main reason  
6 for applying for the mark, then I would be doing my  
7 business under that title. And if I continue to  
8 use Attention Soldier, it would be only if I did  
9 create a company and had employees doing larger  
10 scale projects.

11 Q. So ElleSchneider.com, do you know who  
12 owns it?

13 A. It is a Chinese company that I have  
14 attempted to reach. They squat a number of  
15 different domains masquerading to be the website of  
16 two elderly, not Internet-savvy people, but if you  
17 put the content of that site into Google, you find  
18 that they have squatted probably hundreds of sites  
19 with the same content, but I have tried to contact  
20 them in the past and I have not received a reply so  
21 it's not even a situation of them holding it  
22 hostage as happens from time to time. I think they  
23 are just holding it to hold it.

24 Q. Could you fathom any reason why they  
25 would be doing this?

1 L. Schneider

2 A. My only reason that because I am on  
3 IMDb -- I assume that you are familiar with IMDb.

4 Q. Yes.

5 A. I wouldn't be shocked if a spam company  
6 went through the databases there and just started  
7 registering any domain that was available  
8 associated with some of the profiles there as sort  
9 of a catchall in case anybody became well known.

10 Q. Interesting.

11 So when you are working on a film, let's  
12 say as a director, how are you identified in the  
13 credits?

14 A. As Elle Schneider, and that may or may  
15 not say "film by Elle Schneider".

16 Q. When the credits say "a film by Elle  
17 Schneider" or "directed by Elle Schneider", what  
18 does that tell the viewer?

19 A. It's essentially a branding thing. This  
20 is, you know, produced in a certain style with a  
21 certain quality associated with me.

22 Q. So let me ask you a question. Back up a  
23 second and just ask you to look at what's been  
24 marked as Exhibit 1. Have you seen that before?

25 A. I think you e-mailed this to me on the

1 L. Schneider

2 17th.

3 Q. And you are appearing here today  
4 pursuant to that notice of deposition, correct?

5 A. Yes.

6 Q. On the bottom I wrote "Michael  
7 Chiappetta", and I signed it "Michael Chiappetta".  
8 Is that a brand?

9 A. I wouldn't say it's a brand if it's a  
10 legal document.

11 Q. So if I write a short story, for  
12 example, and I write my name at the bottom, is that  
13 a brand?

14 A. If you write your name on the cover,  
15 that's a brand. If you are John Grisham, there is  
16 a certain quality and expectation that comes with  
17 John Grisham. If you are Carolyn Keene, who was  
18 the pseudonym of the multiple writers who wrote the  
19 Nancy Drew novels, that denotes this is an official  
20 piece of writing that connotes a certain quality  
21 and content.

22 Q. But doesn't the appearance of my name on  
23 a legal document denote a certain quality of the  
24 document itself, or on a short story, a certain  
25 quality of writing if I write my name on it?

1 L. Schneider

2 A. It's not the act of writing your name.  
3 It's whether the name carries any weight or  
4 notoriety.

5 Q. So whether something functions as a  
6 brand, whether a name functions as a brand is a  
7 function of the person's notoriety?

8 A. It also depends on the -- on the what  
9 would I say the industry as well because there are  
10 certain industries such as fashion design or  
11 filmmaking where the brand is closely associated  
12 with the creator of that brand. I had mentioned to  
13 you previously, for example, Nicole Miller as a  
14 designer. There are many people that work under  
15 Nicole Miller, but her name and her signature is  
16 what is associated with the quality of the garments  
17 produced at the company that also bears her name.

18 Q. Does Nicole Miller actually sew her  
19 garments?

20 A. I don't believe so, but I think that  
21 when she began she probably did.

22 Q. But is it fair to say that when "Nicole  
23 Miller" appears on a product, it doesn't  
24 necessarily mean that she actually made that  
25 product?

1 L. Schneider

2 A. Well, there is a connotation of  
3 association with the making of the product.

4 Q. Right.

5 A. And it is unlikely that she had zero  
6 involvement, but the amount of involvement, you  
7 know, somewhere between zero and a hundred. The  
8 point is that it's used as a mark of quality on the  
9 product.

10 Q. I guess what I would like to do is  
11 separate products from services because what's at  
12 issue here is whether Elle Schneider functions as a  
13 service mark. So it would seem to me that anybody  
14 who provides a service would have a brand in their  
15 name using your logic. Would you agree with that?

16 A. Yes, again, depending on the industry,  
17 but I think that that's fair to say. The  
18 entertainment industry I think is a little bit  
19 tricky because in a way it's goods and services,  
20 and there is not always a fine line between those  
21 two things because as a filmmaker, you are creating  
22 projects that are products, but you are also  
23 providing a service of creating those products.

24 Q. So getting back to the question that  
25 spawned this line of questions, I asked you if Elle

1 L. Schneider

2 Schneider appears in credits, what does that tell  
3 the viewer. I don't remember what your precise  
4 answer was, but doesn't it tell the viewer that  
5 you, as an individual, directed the movie?

6 A. Yes.

7 Q. Can the phrase "directed by Elle  
8 Schneider" mean that someone other than you  
9 directed the movie?

10 A. There are second unit directors  
11 frequently on films and in cases where directors  
12 are elderly, for example -- not that that applies  
13 to me, but there are certainly cases in which other  
14 people are directing under the supervision of the  
15 credited director, or for example, someone is let  
16 go or taken ill in the middle of a movie and  
17 someone else takes over, the original person may  
18 get the credit. It more connotes -- I mean, you  
19 would hope that it would mean that they were the  
20 person that did 100 percent of the work, but it  
21 again can be a brand depending on what's happening  
22 behind the scenes that may not be credited.

23 Q. What did you refer to the second person?

24 A. A second unit.

25 Q. A second unit director?

1 L. Schneider

2 A. Yes.

3 Q. Okay.

4 A. That's if you have -- basically the real  
5 director, the director of the film usually directs  
6 actors. Second units may get less important scenes  
7 or exterior shots that are considered either less  
8 important or say may take place in a different  
9 geographic location that it is not feasible to  
10 bring the entire main crew of the film to.

11 Q. But the second unit director will get  
12 his or her own credit, correct?

13 A. Yes.

14 Q. And it's understood in the industry when  
15 something says directed by a particular director,  
16 that that director worked with other people?

17 A. Yes.

18 Q. But my question to you is can "directed  
19 by Elle Schneider" mean that someone else fulfilled  
20 the function of "director"?

21 A. Not typically.

22 Q. You said "not typically". Can you give  
23 me a situation where it might refer to somebody  
24 else?

25 A. Yes. The last film that Robert Altman

1 L. Schneider

2 did that he is credited as a director, he was ill  
3 and about to pass away, and so he had other  
4 directors helping him on the project but it was  
5 still credited to him. And similarly, "A.I.",  
6 Stanley Kubrick was starting to direct this film  
7 and Steven Spielberg ended up doing the on-set  
8 directorial work, but Stanley Kubrick was not  
9 credited as a director even though he performed  
10 some of the early functions as a director.

11 Q. He passed away long before the film  
12 began principal photography, correct?

13 A. I think in that case, yes, but I am not  
14 super sure of the timeline. It is -- it is often  
15 inferred that certain directors have their  
16 assistant directors do a bulk of the work, but  
17 every set runs differently so it's hard to  
18 quantify. In the most general of senses, the  
19 person that is listed as the director is probably  
20 the person who is directing the film.

21 MR. CHIAPPETTA: Can I mark this as  
22 Exhibit 2, please?

23 (Exhibit 2, Mockup DVD for "Confession",  
24 marked for identification, as of this date.)

25 Q. Can you look at what's been marked as

1 L. Schneider

2 Exhibit 2 and tell me what it is?

3 A. This is a mockup DVD cover for the short  
4 film "Confession" which I directed.

5 Q. Does the name "Elle Schneider" appear on  
6 there?

7 A. It does. It appears in the credits, "An  
8 Elle Schneider film, written and directed by Elle  
9 Schneider" at the bottom.

10 Q. In the case of that film, did anybody  
11 other than you direct the movie?

12 A. No.

13 Q. Is that, in your view, a use of "Elle  
14 Schneider" as a trademark?

15 A. This early on, I don't think I would say  
16 that although I do have it under the title, so  
17 maybe in retrospect I would say yes. I don't think  
18 I was intending it at the time as it was my first  
19 professional project.

20 Q. So when you say yes, particularly  
21 because it's under the title?

22 A. Yes.

23 Q. It says "Confession, a film by Elle  
24 Schneider"?

25 A. Yes.

1 L. Schneider

2 Q. So you viewed that as a trademark use?

3 A. I would say yes.

4 Q. Is it correct to say that whenever you  
5 use the name "Elle Schneider" in connection with  
6 film or video services that you are referring to  
7 you as an individual?

8 A. Typically.

9 Q. When would that not be the case?

10 A. I would say it would not be the case if  
11 someone is hiring me say as a cinematographer and  
12 there is an assumption that I will be coming with  
13 some kind of crew, whether or not they are my  
14 employees directly, but it would denote the people  
15 that I am working with -- that work with me as  
16 opposed to the general group but typically, yes, it  
17 would refer to me as an individual.

18 Q. Are you aware of anyone else that has  
19 provided film or video production services under  
20 the Elle Schneider mark?

21 A. I am not aware of anybody else.

22 Q. Do you authorize anybody else to use the  
23 mark?

24 A. Not currently.

25 Q. Have you ever authorized anyone else to

1 L. Schneider

2 use the mark?

3 A. No.

4 Q. If there was somebody else let's say  
5 named Elle Schneider and she too was a filmmaker,  
6 would you have any objection to her use of the name  
7 "Elle Schneider" in connection with film and video  
8 services?

9 A. I would and it would be probably bad  
10 branding for that individual if they wanted to  
11 distinguish their body of work from my body of work  
12 to use the same name. I know an individual who is  
13 a musician whose legal name is Tanner L. Schneider  
14 and she goes by a stage name of L. Keen. Because  
15 we actually by chance knew each other a few years  
16 ago, and that was part of how she was  
17 differentiating herself, not just from me but  
18 because she had a well-known parent and she wanted  
19 to use a different last name, but that's the only  
20 individual that I have ever encountered with a  
21 close name who was doing something in the arts.

22 Q. But if you did encounter someone who was  
23 a filmmaker and using "Elle Schneider", would you  
24 take steps to stop that?

25 A. I would.

1 L. Schneider

2 Q. What would you do?

3 A. I would probably first contact them, and  
4 assuming that they were aware that someone else was  
5 using the same name, I would suggest that they use  
6 a different name and perhaps meet with them and see  
7 what their deal was. You know, if it was someone  
8 who had a completely different job description, if  
9 it was someone maybe who was like a composer,  
10 something -- nothing that I have to do with, then  
11 it probably wouldn't matter to me.

12 MR. CHIAPPETTA: Can I mark this as  
13 Exhibit 3?

14 (Exhibit 3, Trademark application,  
15 marked for identification, as of this date.)

16 Q. I am showing you what's been marked as  
17 Exhibit 3. Do you know what this is?

18 A. That looks like my trademark  
19 application.

20 Q. That's correct. I printed it off of the  
21 United States Patent and Trademark Office database.

22 A. Yes.

23 Q. Can you turn to the second page where it  
24 lists the services on the application?

25 A. Yes.

1 L. Schneider

2 Q. Have you used the Elle Schneider mark in  
3 connection with all these services?

4 A. Pretty much.

5 Q. Can you tell me which of these you  
6 actually have not performed under the Elle  
7 Schneider mark?

8 A. I think I have all of them, yes. Yes, I  
9 have used all of them or I have identified myself  
10 as Elle Schneider with all of them.

11 Q. Well, let's take photography services.  
12 Can you describe an instance where you provided  
13 photography services under the Elle Schneider mark?

14 A. I was recently a still photographer for  
15 a web series.

16 Q. What was that?

17 A. It's called Caper.

18 Q. Can you describe that, what Caper is?

19 A. It is a superhero web comedy produced by  
20 the company Geek and Sundry.

21 Q. Exactly what did you do?

22 A. My primary function was as second unit  
23 cinematographer. I was also the behind-the-scenes  
24 photographer, the promotional photographer, and the  
25 behind-the-scenes videographer.

1 L. Schneider

2 Q. So were you hired by Geek and Sundry?

3 A. I was hired by the showrunner of the  
4 project.

5 Q. Who was that?

6 A. Amy Berg.

7 Q. Were you paid for your services?

8 A. Yes.

9 Q. Who paid you?

10 A. I believe Amy Berg's company paid me.

11 Q. Do you know the name of that company?

12 A. Bergopolis, Inc..

13 Q. Did you enter into a contract with  
14 Bergopolis, Inc.?

15 A. I don't believe I had a contract.

16 Q. Have you ever entered into a contract  
17 for your provision of photography services?

18 A. I am not sure offhand if I have. I --  
19 photography is not my main professional service, so  
20 it's something that more typically happens during  
21 the course of a different job, and if photography  
22 is one of the contested goods and services, it is  
23 so minorly associated with what I do that I don't  
24 have a problem removing it from the registration.

25 Q. Can you give me an example of when you

1 L. Schneider  
2 provided post-production editing services in the  
3 field of music under the Elle Schneider mark?

4 A. Let's see. When was the last time I  
5 edited for hire? A few months ago I edited for a  
6 web channel called Twinzies. That produces YouTube  
7 channel content, and I have edited for them. I  
8 don't know if it was -- I don't know how it was  
9 credited or if it was put up online.

10 Q. And when you have been hired to provide  
11 editing services, have you ever come with a crew,  
12 so to speak, like you say you do?

13 A. Typically not for editing, no. Editing  
14 is, on a small project particularly, something one  
15 would do by oneself.

16 Q. So when your name appears in the credits  
17 of a film that you have edited and it says "edited  
18 by Elle Schneider", would you say that's a brand  
19 use?

20 A. I would say probably not. Most editing  
21 is not -- there are in film demarkations of above  
22 the line and below the line, that is people who  
23 have more creative control and input and people who  
24 are more hired guns, and editing is considered  
25 below the line, despite the fact that many editors

1 L. Schneider  
2 do have a style that they are known for.

3 Q. Sure.

4 Can you give me an example when you have  
5 used "Elle Schneider" as a trademark in connection  
6 with editing services?

7 A. No, not currently.

8 Q. Can you give me an example of a time  
9 that you used "Elle Schneider" as a trademark in  
10 connection with screenwriting services?

11 A. Yes.

12 Q. What would that be?

13 A. I was initially a screenwriter. That is  
14 what my degree is in. And I have had a number of  
15 unproduced screenplays that have circulated in  
16 large or small scope within the industry that bear  
17 that name.

18 Q. So it says on the screenplay "By Elle  
19 Schneider"?

20 A. Yes.

21 Q. So again, you are saying that is a  
22 trademark use?

23 A. I do, yes.

24 Q. Yet the name "Elle Schneider" identifies  
25 you as an individual in those instances, correct?

1 L. Schneider

2 A. Sure.

3 Q. Does it identify the services of anybody  
4 other than you?

5 A. Not in those instances.

6 Q. And also the writing of articles for  
7 periodicals other than advertising and publicity,  
8 can you give me an example of your use of "Elle  
9 Schneider" as a trademark in connection with the  
10 writing of articles for periodicals?

11 A. Let's see. Actually I don't -- let me  
12 think for a minute because this was put in in 2011  
13 and my brain is fried. I believe at the time that  
14 I made the registration, I was starting to write  
15 essays and stuff, and I had had employment  
16 previously as a scriptwriter for a periodical  
17 relating to screenwriting and I was hoping to go  
18 into that, but I don't think since I made this  
19 registration I have done any writing for  
20 periodicals.

21 Q. Okay. But the question was can you give  
22 me an example of a trademark use?

23 A. No, no, in which case that is when I  
24 correct myself. The instance where I don't feel I  
25 have used that with the Elle Schneider name and

1 L. Schneider  
2 then the writing of texts other than publicity  
3 texts would also denote screenwriting and similar  
4 stuff.

5 MR. CHIAPPETTA: Can I mark these as 4  
6 and 5?

7 (Exhibit 4, Response to requests, marked  
8 for identification, as of this date.)

9 (Exhibit 5, Response to first set of  
10 interrogatories, marked for identification, as  
11 of this date.)

12 (Exhibit 6, Discovery requests, marked  
13 for identification, as of this date.)

14 (Exhibit 7, Discovery requests, marked  
15 for identification, as of this date.)

16 (Exhibit 8, Response to requests, marked  
17 for identification, as of this date.)

18 Q. I am putting in front of you what's been  
19 marked as Exhibits 4 and 5.

20 Have you seen these before?

21 A. Yes. Those are my response to requests  
22 and response to first set of interrogatories from  
23 whenever they were -- a while ago.

24 Q. So these are discovery responses that  
25 you provided in this case, correct?

1 L. Schneider

2 A. Yes.

3 Q. Can you look at your response to  
4 Interrogatory Number 8?

5 A. Okay. So that's "Applicant has" -- is  
6 the advertising services question?

7 Q. Correct.

8 A. Okay.

9 Q. In that response, you say that as of the  
10 date of that response, you had not advertised your  
11 services under the Elle Schneider mark; is that  
12 correct?

13 A. I said beyond social media, but yes, but  
14 I don't know that I would necessarily, even if I  
15 received the mark, advertise in that way because it  
16 is often considered unprofessional in the  
17 entertainment world to do that kind of, you know --  
18 it's not sort of the sofa king billboard type of  
19 work.

20 Q. Sitting here today, can you tell me if  
21 you have ever advertised your film and video  
22 production services under the Elle Schneider mark?

23 A. If you are defining "advertised" as  
24 print in some way, then yes, I would agree with  
25 that.

1 L. Schneider

2 Q. I'm sorry. You would agree?

3 A. Sorry. I have not advertised in print  
4 in any manner and I would say I guess traditional  
5 advertising.

6 Q. Okay. Let's put before you what's been  
7 marked as Exhibits 7 and 8.

8 What are these?

9 A. 6 and 7?

10 Q. I'm sorry. 6 and 7.

11 Are these discovery requests that have  
12 been served upon you in this proceeding?

13 A. I believe so, yes.

14 A. Yes.

15 Q. And I am going to show you what's been  
16 marked as Exhibit 8.

17 Can you tell me what that is?

18 A. That looks like a response to requests  
19 with probably a second set of requests.

20 Q. So Exhibit 8 is a response to which  
21 exhibit?

22 A. Exhibit 8 is a response to the second  
23 set of document request -- no. Second set of  
24 request for admissions.

25 Q. So it's response to 7?

1 L. Schneider

2 A. Yes, it is a response to 7.

3 Q. Have you provided any responses to  
4 what's been marked as Exhibit 6?

5 A. I am not sure. I don't think so.

6 Q. Any reason why not?

7 A. Probably because I have poor  
8 time-management skills.

9 Q. Would you be willing to provide  
10 responses?

11 A. I think so. Let me take a look at it.  
12 That was 6 you said? Yes, I can respond to that.  
13 I think we have already gone over --

14 Q. Well, why don't you read the question  
15 out loud?

16 A. Okay. Number 20 is "Describe in detail  
17 how the mark Elle Schneider 'identifies products or  
18 services provided by respondent or provided under  
19 the personal supervision of respondent' as alleged  
20 in your response to request for admission number  
21 14".

22 21 is --

23 Q. Well --

24 A. Oh, you want the response. Sure. We  
25 have sort of been over this already. It sort of

1 L. Schneider  
2 identifies -- it identifies the quantity and  
3 content of the film project in question as being  
4 associated with myself.  
5 RQ Q. Actually, rather than give oral answers,  
6 can you provide me with a written response to that?  
7 A. I suppose, yes. Can you give me a  
8 couple of days to do that?  
9 Q. Yes. Let's say two weeks?  
10 A. Sure. I can do that.  
11 Q. One more exhibit.  
12 (Exhibit 9, Business card, marked for  
13 identification, as of this date.)  
14 A. Exhibit 9 would be my business card or  
15 my former business card. I don't use it anymore.  
16 Q. Is that the specimen you submitted to  
17 the US Patent and Trademark Office?  
18 A. Yes, I believe it is.  
19 Q. And the name on the business card is  
20 "Elle Schneider", correct?  
21 A. Yes.  
22 Q. And this refers to you?  
23 A. Yes.  
24 Q. Can it refer to anyone else?  
25 A. No. I mean, someone else with that

1 L. Schneider

2 name.

3 Q. Well, I am saying that business card --

4 A. Yes. That is my business card.

5 Q. Could the name "Elle Schneider" on that  
6 business card refer to the services of someone  
7 other than you?

8 A. Probably not.

9 Q. Has anyone besides you ever carried that  
10 business card?

11 A. No.

12 Q. Why not?

13 A. Because that business card is associated  
14 with the production company of which I am the  
15 person working in currently.

16 Q. Has anyone else ever worked in that  
17 production company?

18 A. I have had other people who worked with  
19 me, but they have had their own identification but  
20 I don't know that any projects were finished with  
21 that person. It's four potential projects, not  
22 projects that came to fruition.

23 Q. Has anyone ever worked with you on  
24 projects they received their own credits in  
25 connection with the film?

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

L. Schneider

A. I would assume so, yes.

Q. All right.

That will wrap it up, but as a matter of procedure, the Trademark Rules of Practice require that the court reporter provide a certification and that the court reporter be responsible for maintaining exhibits and filing them. It's a formality that typically we waive. What we would prefer to do is I will hold onto these exhibits. The court reporter will send me the transcript, I will attach the exhibits of everything, and then I will file them, and I will send you a copy so you can make sure everything is in order.

So basically I am just asking will you waive the requirements of this rule as it relates to the need for the court reporter to provide the required certification?

A. That's fine.

Q. And would you stipulate that or agree that I will be responsible for maintaining exhibits and filing the testimonial deposition?

(Continued onto next page to include jurat.)

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

L. Schneider

A. Sure.

Q. Okay. That wraps it up.

(Time noted: 5:56 p.m.)

\_\_\_\_\_.

LAUREN SCHNEIDER

Subscribed and sworn to before me  
this \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_

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

L. Schneider

C E R T I F I C A T E

STATE OF NEW YORK     )  
  : ss.  
COUNTY OF QUEENS     )

I, YAFFA KAPLAN, a Notary Public  
within and for the State of New York, do  
hereby certify:

That LAUREN SCHNEIDER, the witness  
whose deposition is hereinbefore set forth,  
was duly sworn by me and that such  
deposition is a true record of the  
testimony given by the witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I am  
in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th day of December,  
2013.

  
\_\_\_\_\_  
YAFFA KAPLAN

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

----- I N D E X -----

WITNESS	EXAMINATION BY	PAGE
Lauren Schneider	Mr. Chiappetta	4

----- INFORMATION REQUESTS -----

DIRECTIONS:

RULINGS:

TO BE FURNISHED:

REQUESTS: 33

MOTIONS:

----- EXHIBITS -----

EXHIBIT	FOR ID.
1....Notice of deposition.....	4
2....Mockup DVD for "Confession".....	19
3....Trademark application.....	23
4....Response to requests.....	29
5....Response to first set of interrogatories....	29
6....Discovery requests.....	29
7....Discovery requests.....	29
8....Response to requests.....	29
9....Business card.....	33

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

DEPOSITION ERRATA SHEET

Our Assignment No. 59314  
CASE NAME: Presse vs. Schneider

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury  
that I have read the entire transcript of  
my Deposition taken in the captioned matter  
or the same has been read to me, and  
the same is true and accurate, same and  
except for changes and/or corrections, if  
any, as indicated by me on the DEPOSITION  
ERRATA SHEET hereof, with the understanding  
that I offer these changes as if still under  
oath.

\_\_\_\_\_

LAUREN SCHNEIDER

Subscribed and sworn to on the \_\_\_\_\_ day of  
\_\_\_\_\_, 2014 before me,

\_\_\_\_\_

Notary Public,  
in and for the State of \_\_\_\_\_

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

DEPOSITION ERRATA SHEET

Page No.\_\_\_\_Line No.\_\_\_\_Change to:\_\_\_\_\_

Reason for change:\_\_\_\_\_

SIGNATURE:\_\_\_\_\_DATE:\_\_\_\_\_

LAUREN SCHNEIDER

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

DEPOSITION ERRATA SHEET

Page No.\_\_\_\_Line No.\_\_\_\_Change to:\_\_\_\_\_

Reason for change:\_\_\_\_\_

SIGNATURE:\_\_\_\_\_DATE:\_\_\_\_\_

LAUREN SCHNEIDER

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposer's Ref: HFIL 1106384

In the matter of Application Serial No. 85/240605  
Published in the *Official Gazette* on June 21, 2011  
Mark: ELLE SCHNEIDER



-----X  
HACHETTE FILIPACCHI PRESSE,

Opposer,

- against -

LAUREN R. SCHNEIDER,

Applicant.  
-----X

Opposition No. 91202984

**AMENDED NOTICE OF TESTIMONIAL DEPOSITION**

PLEASE TAKE NOTICE that pursuant to Trademark Rule of Practice 2.123, and per the agreement of the parties, Opposer Hachette Filipacchi Presse ("Opposer"), by its counsel, Fross Zelnick Lehrman & Zissu, P.C., will take the testimonial deposition on oral examination of Lauren R. Schneider, 465 North Summit Avenue, Los Angeles, California 91103, at the offices of Fross, Zelnick, Lehrman & Zissu, P.C., 866 United Nations Plaza, 6<sup>th</sup> Floor, New York, New York 10017, commencing at 1 p.m. on December 26, 2013 and continuing until concluded.

Dated: New York, NY  
December 17, 2013

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: Michael Chiappetta  
Michael Chiappetta  
866 United Nations Plaza  
New York, NY 10017  
(212) 813-5900  
Attorneys for Opposer

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of December 2013, I caused a true and correct copy of the foregoing AMENDED NOTICE OF TESTIMONIAL DEPOSITION to be sent by Federal Express and e-mail to Applicant, Lauren R. Schneider at the following address of record for Applicant:

Lauren R. Schneider  
465 North Summit Avenue  
Pasadena, Ca 91103 3719  
elle.schneider@gmail.com

By:           /Michael Chiappetta/            
          Michael Chiappetta

# CONFESSION

Produced as one of the seven short films of the 2006 *Duke City Shootout* film festival in Albuquerque, New Mexico, *Confession* is the story of two men's redemption, found in the worst of times under the most unlikely of circumstances.



Miguel Martinez and Rob deBuck star as two criminals who find themselves at odds on either side of a church confessional. Hidden deep beneath countless lies and false impressions, a few real confessions surface about life, death, and accepting one's fate.

*Confession* had its world premiere on July 29th, 2006, in downtown Albuquerque with an estimated 1,400 people in attendance. Along with the other six entries, *Confession* was made legally available for download on the Bittorrent website, and remained in its top ten most downloaded films for over two months.



ENGLISH Stereo ★ Approx. Run Time: 10 Minutes ★ Color ★ 2006 ★ Unrated

DFI PRESENTS

IN ASSOCIATION WITH THE DUKE CITY SHOOTOUT AN ATTENTION SOLDIER! PRODUCTION AN ELLE SCHNEIDER FILM  
MIGUEL MARTINEZ ROB DeBUCK "CONFESSION" WITH JEFF CAUDLE MUSIC BY CHRIS DOBBS EDITED BY REUBEN FINKELSTEIN  
EXECUTIVE PRODUCER JIM GRAEBER AND TONY DELLAFLORA PRODUCED BY MARIE GARDNER AND CHAD TRAVIS



The Duke City  
SHOOTOUT

WRITTEN AND DIRECTED BY ELLE SCHNEIDER



an ATTENTION SOLDIER!  
PRODUCTION 2006

CONFESSION © 2006 Attention Soldier Productions and the Digital Filmmaking Institute. All Rights Reserved. Package Design © 2006 Elle Schneider. All Rights Reserved. Licensed for distribution only in the United States and Canada. Distributed by Attention Soldier Productions and the Digital Filmmaking Institute. WARNING: Federal law provides severe civil and criminal penalties for the unauthorized reproduction, distribution or exhibition of copyrighted motion picture works, laser discs and DVDs. Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to 5 years in prison and/or a \$250,000 fine. This copy licensed for film festival and personal exhibition only. Any other public performance, copying or other use is strictly prohibited. All Rights Reserved. PRINTED IN USA



CONFESSION



rob debuck

miguel martinez



CONFESSION  
a film by elle schneider

On Sunday, December 29 2013, the Trademark Status and Document Retrieval (TSDR) will be unavailable due to system maintenance from 12:01 a.m. until 5 a.m.

STATUS DOCUMENTS

[Back to Search](#)

Print

**Generated on:** This page was generated by TSDR on 2013-12-26 14:49:50 EST

**Mark:** ELLE SCHNEIDER

# Elle Schneider

**US Serial Number:** 85240605

**Application Filing Date:** Feb. 11, 2011

**Filed as TEAS Plus:** Yes

**Currently TEAS Plus:** Yes

**Register:** Principal

**Mark Type:** Service Mark

**Status:** An opposition after publication is pending at the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

**Status Date:** Dec. 14, 2011

**Publication Date:** Jun. 21, 2011

## Mark Information

**Mark Literal Elements:** ELLE SCHNEIDER

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK



**Name Portrait Consent:** The name(s), portrait(s), and/or signature(s) shown in the mark identifies Elle Schneider, whose consent(s) to register is made of record.

## Goods and Services

**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Film and video production; Film and video production consulting services; Film editing; Media production services, namely, video and film production; Multimedia entertainment services in the nature of development, production and post-production services in the fields of video and films; Multimedia entertainment services in the nature of recording, production and post-production services in the fields of music, video, and films; Photography; Photography services; Post-production editing services in the field of music, videos and film; Production and distribution of videos in the field of fashion; Production of films; Script writing services; Writing of articles for periodicals other than for advertising or publicity; Writing of texts other than publicity texts

**International Class(es):** 041 - Primary Class

**U.S Class(es):** 100, 101, 107

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** 2006

**Use in Commerce:** 2006

### Basis Information (Case Level)

**Filed Use:** Yes

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** No

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

### Current Owner(s) Information

**Owner Name:** Schneider, Lauren R.

**DBA, AKA, Formerly:** DBA Elle Schneider

**Owner Address:** 465 N Summit Avenue  
Pasadena, CALIFORNIA 91103

UNITED STATES

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

### Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: LAUREN R SCHNEIDER  
465 NORTH SUMMIT AVENUE  
LOS ANGELES, CALIFORNIA 91103-3719  
UNITED STATES

Phone: (212) 203-8960

Correspondent e-mail: [elle.schneider@gmail.com](mailto:elle.schneider@gmail.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

### Prosecution History

Date	Description	Proceeding Number
Dec. 14, 2011	OPPOSITION INSTITUTED NO. 999999	202984
Jul. 13, 2011	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jun. 21, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jun. 21, 2011	PUBLISHED FOR OPPOSITION	
May 16, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 12, 2011	ASSIGNED TO EXAMINER	81877
Feb. 16, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Feb. 15, 2011	NEW APPLICATION ENTERED IN TRAM	

### TM Staff and Location Information

TM Staff Information

**TM Attorney:** BLAIR, JASON PAUL

**Law Office Assigned:** LAW OFFICE 104

**File Location**

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** May 18, 2011

**Assignment Abstract Of Title Information - [Click to Load](#)**

**Proceedings - [Click to Load](#)**



Production of motion pictures. Specific titles and services may be found on Applicant's IMDb page: <http://www.imdb.com/name/nm1741056/>

(b) Applicant's Mark was used in crediting authorship of work and sometimes on promotional items such as Posters.

(c) Applicant's Mark was used on materials starting in 2006 until present day.

5. Services, paid and unpaid, have been performed in Los Angeles, CA, Pasadena, CA, Albuquerque, NM, and New York City, NY. Dates may be found on the previously cited IMDb page.
6. Applicant has tax records beginning in 2009, and previously was not earning enough income from any profession to file taxes. According to available tax documents for subsequent years, Applicant made \$788 in 2009, \$377 in 2010, \$4,756 in 2011 from film-related services. 2012 is still in progress, but Applicant estimates an income of \$3,000 for services rendered in 4 (a). Since February 2012, Applicant has held a film-related part-time job, but Applicant's film services, which make up a fraction of her duties, have not been specifically compensated, but rather included in a monthly salary. Due to Applicant's tendency towards creating personal motion pictures rather than promoting herself for freelance work during the duration of this case, Applicant's revenues have been minimal.
7. Applicant has not kept documentation as far as exact amount spent on promotion of service, but promotion has been limited to social media (free) and business card expenditures of less than \$500. Further promotional spending will likely occur if Applicant's Mark is registered.
8. Applicant has of this date not advertised services beyond social media and production company website [www.attentionsoldier.com](http://www.attentionsoldier.com) due to inability to claim squatted domain [www.elleschneider.com](http://www.elleschneider.com), which may only be reclaimed with registration of Applicant's Mark. If Applicant's Mark is registered, Applicant does not intend to advertise personal services via magazine or print publication, only on production company and personal website, however advertisement of goods created by or under supervision of Applicant such as motion pictures may be advertised in print publication in the future by Applicant or owner or a licensee of goods created by Applicant, and could bear Applicant's Mark.
9. Applicant currently produces services via personal interaction and not via standard trade channels, stores or business locations, and does not currently advertise or provide services in such channels. Applicant does not currently intend, but may in the future wish, to provide services such as seminars, workshops or creative partnerships in connection with stores or business locations which may use Applicant's Mark for advertising or

branding of services or products. Applicant intends for future goods and products created by or under supervision of Applicant to be available in stores or business locations, both physical and on the Internet.

10. As of this date, Applicant has been sole producer of Applicant's goods and services. Independent contractors such as sound recordists, sound designers, cinematographers, assistant camerapeople, colorists, production assistants, carpenters, composers, and other standard members of a motion picture production or post-production crew may have been hired by Applicant or companies collaborating with Applicant to aid in creation of Applicant's goods or services but are credited as individuals and not under Applicant's Mark.
11. No.
12. No thorough or formal Market Research has been conducted or received by or on behalf of Applicant referring to Applicant's Mark, Opposer, or Opposer's Marks. Applicant has never encountered likelihood of confusion or actual confusion between the Parties' respective Marks. Informal "other searches" have been performed via Google search and similar internet search engines.

In searching for terms "Elle Schneider" (used WITHOUT using quotation marks that would indicate within search results that "elle" and "schneider" must appear together in that word order) on Google, the pre-eminent online search engine that uses an internationally-recognized algorithm to identify relevant results for a given search term, returns more than "About 5,910,000 results", ranked in order of relevancy from most (#1) to least (#5,910,000), on pages that contain 10 results per page.

Opposer's mark "ELLE" does not appear in the first 11 pages of search results. Opposer's mark "ELLE" first appears on page 12, the 113<sup>th</sup> result, in the context of a line of ELLE jewelry available via webstore "Schneider's Jewelers" and not in connection with Applicant's Mark. Opposer's Mark appears again on page 40 as the 400<sup>th</sup> result in connection with a 1980 magazine cover featuring actress Romy Schneider, not in connection with Applicant's Mark. After 50 pages of results (500 results), at no time do Opposer's Mark and Applicant's Mark appear together in any way, nor are they confused by results or Google as being one and the same.

Furthermore, Google's "searches related to elle schneider" does not recommend any of Opposer's Marks as related searches.

At least 200 of the 500 results (40%) for "elle schneider" referenced Applicant or Applicant's work specifically; 60% referenced other

individuals using the name of Elle Schneider or search terms that contained both "elle" and "schneider", all but two of which include word "elle" but DO NOT reference Opposer's Mark. A few of the 60% miscellaneous results likely reference Applicant but their abstracts contain no specifics to denote to what or whom their result of "elle schneider" refers. The 40% of search results for "elle schneider" correctly identifying Applicant shows an established notability of Applicant and Applicant's Mark.

A search of Opposer's Mark "ELLE" shows over 800 million results, appropriately large for a long-established brand as well as a popular first name and common French pronoun. However, of the first 500 results for the search "elle", only 322 (64%) refer to Opposer's Mark, despite its long brand history and legal protection. (Zero of these 500 results reference Applicant's Mark.)

A more specific search of "elle schneider" and "ELLE magazine" contains only "About 688" results. Which means that only "about 688" of "about 5,910,000" or .012% of results for elle schneider on the Internet mention Opposer's Mark. Given this infinitesimal percentage, likelihood of confusion between Applicant's Mark and Opposer's Mark is slim.

Of the 688 results, only 332 results on 34 pages are visible due to redundancy or because the remainder have been deemed of too little value for Google to report. Of these 332 results, the majority were incomprehensible spam. 8 of these results mention Applicant (as opposed to other individuals using the name Elle Schneider) and Opposer's "ELLE Magazine" indirectly as part of aggregates of results including hundreds of search terms. There is no result that directly connects Applicant and Opposer's "ELLE Magazine".

A more specific search of "elle schneider" and "ELLE Décor" returns "about 412 results". Of these 172 are viewable on 18 pages of results. Zero results mention Applicant and Opposer's Mark "ELLE Décor". There is no result that directly connects Applicant and Opposer's "ELLE Décor".

A more specific search of "Elle Schneider" and "ELLE tv" returns only "about 38 results." Of these, 13 are viewable. 2 of these results mention Applicant (as opposed to other individuals using the name Elle Schneider) and Opposer's "ELLE Magazine" indirectly as part of aggregates of results including hundreds of search terms. There is no result that directly connects Applicant and Opposer's "Elle TV".

13. Applicant became aware of (a) Opposer, Hachette Filipacchi Press, when a Notice of Opposition was served against Applicant's Mark in 2011; (b)

Opposer's Use of Opposer's Mark when Opposer identified themselves as owners of ELLE Magazine in the Notice of Opposition, and (c) Opposer's registration of Opposer's Mark "Elle". Because Applicant had no intention of registering Mark "ELLE" or using any Mark other than "Elle Schneider", Applicant did not search trademark registration for term "ELLE" prior to registration. Search of TESS shows Applicant's Mark as first and only result for "Elle Schneider." Further, as a speaker of the French language, Applicant was under the erroneous assumption that an internationally used pronoun would not be considered distinctive enough for trademark registration.

14. Never in any instance has a customer or any third party been confused as to whether Applicant is associated with, endorsed, or approved by Opposer, nor have any inquiries ever been made. "Elle", separate from its French language meaning, is a commonly used first name in the United States, and is associated with a number of well known persons and fictional characters in no way connected with Opposer's Mark.
15. Applicant, as a party uninterested in the Opposer's Mark "ELLE" and with little research into its uses aside from those discovered in relation to this case, has only limited knowledge of third parties using the term "elle" and the advertising methods of those third parties. However, from a cursory Google search, those third parties include spas, fitness studios, photography companies, musical albums, French-language feature films and songs, and products created by model Elle MacPherson, who owns the registered Mark "Elle MacPherson" that contains Opposer's Mark "ELLE".

Additionally, Applicant is aware of popular singers Elle Varner and Elle King, who use "Elle" as part of their brands and on promotional materials internationally, popular fictional characters Elle Woods and Elle Driver whose names are used on promotional materials and products for their respective films, as well as recognized teen fashion guru Elle Fowler.

That 36% of Google results for Opposer's Mark "ELLE" that are unrelated to Opposer's Mark demonstrates that other uses of "elle" are numerous, too numerous for Applicant to list adequately or accurately.

16. Applicant does not make any determination of whether or not Opposer is entitled to broad scope of protection. Applicant has no interest in the strength or weakness or Opposer's Mark "ELLE" which is unrelated to Applicant's Mark.
17. Applicant contends that Opposer's Marks used in connection with Opposer's goods and services are broadly connected generally with the fashion industry.

18. Applicant contends that Opposer's Marks used in connection with Opposer's goods and services are famous generally within the fashion industry.
19. Applicant specifically provides services in the creation of motion pictures and creates motion pictures themselves, as submitted in the following goods and services:

Film and video production; Film and video production consulting services; Film editing; Media production services, namely, video and film production; Multimedia entertainment services in the nature of development, production and post-production services in the fields of video and films; Multimedia entertainment services in the nature of recording, production and post-production services in the fields of music, video, and films; Photography; Photography services; Post-production editing services in the field of music, videos and film; Production and distribution of videos in the field of fashion; Production of films; Script writing services; Writing of articles for periodicals other than for advertising or publicity; Writing of texts other than publicity texts.

Opposer's Marks are numerous and used broadly in numerous ways, including promotional video content for their websites elle.com and Elle TV. This video content is news-gathering or promotional in nature and is created specifically as content for Opposer's ELLE Magazine and related brand endeavors. While Opposer's Mark is used in association with its own video content, Opposer does not, and has never advertised or promoted its Mark "ELLE" as a provider of services relating to the creation of motion pictures, of services of editing motion pictures, writing motion pictures, or recording motion pictures, but only as a provider of video content relating to its newsworthy fashion coverage. For example, ELLE is not a photography studio offering photography services to other publications, Elle hires professional freelance photographers (like the Applicant) to provide services, and then licenses and prints their photographs in its Magazines and on websites. To Applicant's knowledge, in the field of motion pictures, Opposer has not created or nor has been hired to create motion pictures for an audience of theatergoers, film festival attendees, VOD platform, or other brand, work that traditionally represents the goods and services of film production. While Opposer's Mark is famous in relation to the fashion industry, Opposer is not famous in relation to the motion picture industry.

Consumers of film products bearing Opposer's Marks (Applicant is unfamiliar with any services actually provided or advertised) are those interested in news and promotional videos relating to a popular fashion magazine which covers news within the fashion industry; they are likely to

be traditional consumers purchasing goods at bookstores, news kiosks, or browsing the ELLE websites. Consumers are likely to be women interested in fashion.

Consumers of products bearing Applicant's Marks are more likely to be clients retaining production services than traditional consumers. Traditional consumers of products bearing Applicant's Mark would likely be purchasers of non news-related, non-promotional videos. In retail locations this would likely mean a video or electronics store, or by VOD download. Consumers are not likely to be any specific gender or with specific interests other than those of a movie-watching person.

Consumers of both Applicant and Opposer's goods will be likely to encounter video content related to each Party's goods online, but not likely in any similar web space.

In regards to specific details of the potentially overlapping goods & services, only 3 of 6 cited registered Marks in Opposition include Class 41 goods & services:

- A. "ELLE" Registration 2242315 includes services related to education in film and theater, entertainment services namely an on-line variety show, television production, cable television production, and video tape film production.

None of these services overlap with Applicant's services, which do not include television, education, variety show production, or video tape production.

- B. Registration 1767100 includes: [RADIO AND TELEVISION ENTERTAINMENT SERVICES; NAMELY, PRODUCTION OF RADIO AND TELEVISION PROGRAMS AND FILM PRODUCTION, INCLUDING] PRODUCTION [OF VIDEO TAPES FOR HOME VIEWING AND] OF SOUND RECORDING FEATURING MUSIC.

These claims overlap with Applicant's services only in the broadest sense of non-specified "film production". Applicant, however, does not specify services related to sound recording, video tapes for home viewing or otherwise, or radio services.

- C. Registration 1668272 includes services related to education, seminars, correspondance courses, "production of radio and television programs"; "film, videotape and audio tape production services; film videotape rental services; audio tape recording studio services, and record master production services"

None of these services overlap with Applicant's services, which do not include television, education, video tapes production, rental, or audio or record master services.

At the time of the Response to Opposition in February 2012, Applicant noted that the live TARR database did not reflect some of the conflicting goods and services cited in Opposer's Notice of Opposition, many of which were film and video related.

In Class 41 for U.S. Registration No. 2242315, namely "production of television programs; entertainment services in the nature of a cable television variety show featuring fashion and beauty; video tape film production" DID NOT APPEAR on TARR record and were noted as permanently deleted from Opposer's registration for non-use on 11/3/2009 as shown by documents in TSDR. This deletion for non-use occurred after Respondent's first-use date of 2006 for similar goods and services.

At the time of the Response to Opposition, U.S. Registrations No. 1668272 and No. 1767100 also had all similar goods and services deleted, though dates of deletion of any goods and services for these marks were unavailable in TSDR.

It is unclear to Applicant when and why these goods & services were restored to the live registrations, as now viewable October 2012. For Registration No. 2242315, the permanent deletion of the cited goods & services should prohibit those goods & services from appearing on the live registration.

Regardless of what caused the aforementioned discrepancies, Applicant feels that overlap of the currently live and vague "film production" service is not grounds for conflict.

### **RESPONSE TO DOCUMENT REQUEST**

Request No. 1:

All documents barring tax documents identified in Applicant's response to Opposer's Interrogatories are freely available online:

IMDb page: <http://www.imdb.com/name/nm1741056/> (see Exhibit i)

Google: <http://www.google.com> (see Exhibit j)

Mentioned tax documents are withheld on a claim of confidentiality, as tax documents contain sensitive private information unrelated to this case. Copies of these documents are owned solely by Applicant and IRS, and include only personal information regarding Applicant.

Request No. 2:

These documents will be attached via email. Most are also available online.

- a. Elle Media Kit 2012
- b. Elle.tv
- c. Elle.com
- d. Current HFP-owned "ELLE" trademark registrations cited in Opposition
- e. Trademark registrations for mark "Elle MacPherson"
- f. Statement of Fabienne Sultan, filed 2/21/12 in matter of HFP vs. ELLEBODYCARE
- g. Combined Declaration of Use and/or Excusable Nonuse/Application for Renewal of Registration of a Mark under Sections 8 & 9 - For mark "Elle", registration #2242315
- h. Vogue Italia website post listing Elle Schneider's photography in Vogue's Fashion's Night Out exhibition in Milan, September 2011
- i. IMDB profile of Elle Schneider
- j. Google search results for "Elle Schneider" and "Elle Schneider" (without quotation marks)
- k. Google image search results for Elle Schneider

Previously cited document "Elle USA 2010 Media guide" PDF is no longer available online. As it was published by Opposer, perhaps they retained a copy and can provide it. Otherwise Applicant can provide at a later date after a more thorough search of records.

Request No. 3:

No such documents exist.

Request No 4:

No such documents exist.

Request No 5:

See: "Exhibit i" IMDb profile of Elle Schneider

Request No. 6:

Attached documents:

1. Example of business card
- m. Production company website [www.attentionsoldier.com](http://www.attentionsoldier.com)

Request No. 7:

Tax documents are withheld on a claim of confidentiality, as tax documents contain sensitive private information unrelated to this case. Copies of these documents are owned solely by Applicant and IRS, and include only personal information regarding Applicant. Relevant information is answered in the Interrogatories and comes from tax documents. According to available tax documents for subsequent years, Applicant made \$788 in 2009, \$377 in 2010, \$4,756 in 2011 from film-related services. 2012 is still in progression, but Applicant estimates an income of \$3,000 for services rendered in 4 (a).

Request No. 8:

No such documents exist. No advertising has been planned. Advertising may be planned if Applicant's Mark is registered.

Request No. 9:

Currently all advertising related to Applicant's Mark exists solely on [www.attentionsoldier.com](http://www.attentionsoldier.com), Applicant's production company website. Applicant has not advertised in stores, business locations, or publications.

Request No. 10:

Currently all advertising related to Applicant's Mark exists solely on [www.attentionsoldier.com](http://www.attentionsoldier.com), Applicant's production company website. Applicant has not advertised with price lists, brochures, newspapers, magazines, or trade articles.

Request No 11:

Attached documents:

- n. *CONFESSION* DVD Box Art
- o. *CONFESSION* DVD Disc Art
- p. *CONFESSION* Poster examples
- q. ONE SMALL STEP Cannes promotional card
- r. ONE SMALL STEP Blu-Ray Box Art
- s. Promotional card for Photography gallery show

Request No. 12:

In as such that Opposer has not been specific as to definition of "review", Applicant have made a best effort to provide sufficient documentation by attaching the following known media articles mentioning Elle Schneider or featuring video of Elle Schneider. There are likely other but no exhaustive search has been performed.

- t. Mashable video & article
- u. Digital Video Magazine Article
- v. Zacuto Article

- w. Turnstyle News Article
- x. The Creator's Project Article
- y. Il Secolo XIX newspaper article (Italian Language)
- z. Zoom Magazine article (German Language)
- aa. Gear Jones Article
- bb. Online: Video interview of Elle Schneider  
[http://www.youtube.com/watch?v=C\\_k1MS80SKk](http://www.youtube.com/watch?v=C_k1MS80SKk)
- cc. Online: Video interview of Elle Schneider  
[http://www.youtube.com/watch?v=Ubg-A3\\_rKM](http://www.youtube.com/watch?v=Ubg-A3_rKM)
- dd. Online: Video interview of Elle Schneider  
<https://vimeo.com/46639643>
- ee. Online: Teradek video interview of Elle Schneider  
<http://new.livestream.com/teradek/day2/videos/494775>

Request No. 13:

No such documents exist. An estimate would be less than \$500 over a 5 year period, and includes website hosting and two iterations of business cards.

Request No. 14:

No presentations exist.

Request No. 15:

No contracts, licenses, agreements, assignments, or consents exist to use Applicant's Mark.

Request No. 16:

No Market Research was conducted or is planned to be conducted. Informal search engine research is detailed in the Interrogatories.

Request No. 17:

No such documents exist. Applicant considers possibility of confusion between an individual providing film services with a fashion magazine highly unlikely.

Request No. 18:

Applicant is not a reader of or subscriber to fashion magazines. It is possible that at one point a copy of ELLE magazine was in possession of Applicant prior to Applicant's filing, but date is impossible to know or provide. Applicant is unaware of any specific previous possession of documents referring or relating to Opposer or Opposer's Marks.

Request No. 19:

Applicant's Mark "Elle Schneider" is unrelated to Opposer's Mark "ELLE" and thus Applicant is not well educated on third party companies that do or do not use the term "elle" or their consumer recognition.

Applicant is aware of popular singers Elle Varner and Elle King, who use "Elle" as part of their brands and on promotional materials internationally, popular fictional characters Elle Woods and Elle Driver whose names are used on promotional materials and products for their respective films, as well as recognized teen fashion guru Elle Fowler. Of course, Elle MacPherson owns a registered Mark in her name.

Documents relating to these women are all attached:

- ff. Elle Fowler's twitter page, which shows over 200,000 followers, her website [www.elleandblair.com](http://www.elleandblair.com), which contains Opposer's Mark, and her association with fashion.
- gg. Elle Driver action figure
- hh. Online Media: Elle King performs on the David Letterman Show: [http://www.cbs.com/shows/late\\_show/video/?pid=kNpW9bUjtIqx&play=true&vs=Default](http://www.cbs.com/shows/late_show/video/?pid=kNpW9bUjtIqx&play=true&vs=Default)
- ii. Elle MacPherson's registered Marks (see Request No 2.)
- jj. Elle Varner's twitter page, which shows over 95,000 followers, her website [www.ellevarner.com](http://www.ellevarner.com) which contains Opposer's Mark, and her album cover which uses Opposer's Mark in its cover art and all associated promotional materials.
- kk. Elle Varner's official Facebook page.
- ll. Elle Fowler's official Facebook page.

Request No. 20:

Third party marks are not mentioned in Interrogatory No. 19. Applicant is unsure of what Opposer is referring to.

Request No. 21:

A trademark search request was conducted via TESS for term "Elle Schneider" previous to filing. There were no results for this search. Post Application, there is no way to retrieve this search. Currently Applicant's application is the only result for term "Elle Schneider".

Submitted,

Lauren R. Schneider

/lrs/

Dated: Los Angeles, California  
October 5, 2012

---

465 N Summit Avenue,  
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 5<sup>th</sup> of October 2012.

Lauren R. Schneider, Applicant

/lrs/

---

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85,240,605  
Published in the *Official Gazette* on June 21, 2011  
Mark: ELLE SCHNEIDER



----- X  
Hachette Filipacchi Presse, :  
 :  
 :  
 Opposer, :  
 :  
 :  
 v. :  
 :  
 :  
 Opposition No. 91,202,984  
 :  
 :  
 :  
 Lauren R. Schneider, :  
 :  
 :  
 :  
 Respondent. :  
----- X

**RESPONSE TO REQUESTS**

Respondent, Lauren R. Schneider (hereinafter the "Respondent") hereby answers the Request of Admission of Hachette Filipacchi Presse (hereinafter the "Opposer").

1. Admit that ELLE SCHNEIDER is your personal name.

ANSWER: Respondent admits that ELLE SCHNEIDER is a variation of her personal name. ELLE is the phonetic spelling of the first initial "L".

2. Admit that ELLE SCHNEIDER is a pseudonym used by you.

ANSWER: Respondant denies that ELLE SCHNEIDER is a pseudonym.

3. Admit that ELLE SCHNEIDER refers to you as an individual.

ANSWER: Respondent admits that ELLE SCHNEIDER refers to Respondent as an individual AND refers to products or services created entirely by Respondent or created entirely with personal supervision of Respondent.

4. Admit that when you provide the services identified in the Application, you identify yourself as ELLE SCHNEIDER to customers of your services.

ANSWER: Respondent admits that when Respondent provides the services identified in the Application, she identifies herself as ELLE SCHNEIDER to customers of her services.

5. Admit that your customers refer to you as ELLE SCHNEIDER.

ANSWER: Respondent admits that her customers refer to her as ELLE SCHNEIDER.

6. Admit that persons other than your customers refer to you as ELLE SCHNEIDER.

ANSWER: Respondent admits that some persons other than her customers sometimes refer to her as ELLE SCHNEIDER.

7. Admit that your customers refer to you as ELLE.

ANSWER: Respondent admits that customers refer to her personally as "Elle" in situations where a first name only basis is appropriate or during personal correspondence or social interaction. Respondent denies that customers refer to goods or services bearing Respondent's Mark as "ELLE."

8. Admit that persons other than your customers refer to you as ELLE.

ANSWER: Respondent admits that some persons other than her customers sometimes refer to her as ELLE in situations where a first name only basis is appropriate or during personal correspondence or social interaction. Respondent denies that persons other than her customers refer to goods or services bearing Respondent's Mark as "ELLE."

9. Admit that you have not authorized any other person to use the mark ELLE SCHNEIDER in connection with the services identified in the Application.

ANSWER: Respondent admits that she has not authorized any other person to use the mark ELLE SCHNEIDER in connection with the services identified in the Application.

10. Admit that when a customer wants to retain your services, they contact you directly.

ANSWER: Respondent admits that when a customer wants to retain her services, they may attempt to contact her directly or indirectly, but Respondent denies knowledge of how a specific customer may attempt to contact Respondent.

11. Admit that services identified in the Application are services that you provide individually.

ANSWER: Respondent admits that services identified in the Application are services that Respondent provides individually OR supervises personally.

12. Admit that services identified in the Application are your personal services.

ANSWER: Respondent admits that services identified in the Application are her personal services AND services Respondent supervises personally.

13. Admit that only you can provide the services identified in the Application under the ELLE SCHNEIDER mark.

ANSWER: Respondent admits that only she can provide OR supervise the provision of the services identified in the Application under the ELLE SCHNEIDER mark.

14. Admit that the ELLE SCHNEIDER mark is used solely to identify you.

ANSWER: Respondent denies that the ELLE SCHNEIDER mark is used solely to identify Respondent. The ELLE SCHNEIDER mark also identifies products or services provided by Respondent or provided under personal supervision of Respondent.

15. Admit that ELLE SCHNEIDER identifies only you as the person providing the services identified in the Application.

ANSWER: Respondent admits that ELLE SCHNEIDER identifies only Respondent as the person providing or supervising the provision of the services identified in the Application.

Submitted,

Lauren R. Schneider, Respondent

/lrs/

Dated: Los Angeles, California  
October 5th, 2012

\_\_\_\_\_  
465 N Summit Avenue,  
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 5<sup>th</sup> of October 2012.

Lauren R. Schneider, Respondent

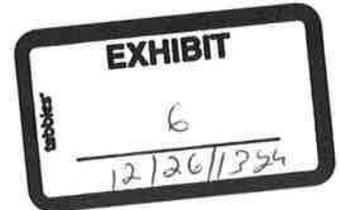
/lrs/  

---

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposer's Ref: HFIL 1106384

In the matter of Application Serial No. 85/240605  
Published in the *Official Gazette* on June 21, 2011  
Mark: ELLE SCHNEIDER



-----X  
HACHETTE FILIPACCHI PRESSE,

Opposer,

- against -

LAUREN R. SCHNEIDER,

Applicant.  
-----X

Opposition No. 91202984

SECOND SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO APPLICANT

Pursuant to Rule 2.120(d) of the Trademark Rules of Practice and Rules 33 and 34 of the Federal Rules of Civil Procedure, Opposer Hachette Filipacchi Presse requests that Applicant Lauren R. Schneider ("Applicant") answer under oath and respond to the following interrogatories and requests for production of documents by serving written responses thereto at the offices of Opposer's attorneys, Fross Zelnick Lehrman & Zissu, P.C., 866 United Nations Plaza, New York, New York 10017 attn: Michael Chiappetta, Esq., within thirty (30) days after service of this request upon Applicant's counsel. Applicant is further required to produce those documents specified herein within 30 days of service of this request at the offices of Fross Zelnick Lehrman & Zissu, P.C. or at another mutually agreed upon time and/or location.

## DEFINITIONS AND INSTRUCTIONS

Opposer incorporates by reference all definitions and instructions set forth in Opposer's First Set of Interrogatories and Document Requests to Applicant.

## INTERROGATORIES

### Interrogatory No. 20:

Describe in detail how the mark ELLE SCHNEIDER "identifies products or services provided by Respondent or provided under the personal supervision of Respondent," as alleged in your response to Request For Admission No. 14.

### Interrogatory No. 21:

Do you own a company named ELLE SCHNEIDER or that includes the phrase "ELLE SCHNEIDER" in the name? If the answer to the foregoing question is anything other than an unequivocal "no," state the nature of the company and when it was formed.

### Interrogatory No. 22:

To the extent you have denied any of the Requests set forth in Opposer's Second Set of Requests for Admission, state in detail the basis for your denial.

DOCUMENT REQUESTS

Request No. 22:

In response to Interrogatory No. 8, you refer to advertising of services under the ELLE SCHNEIDER Mark "in social media." Produce documents to show all such advertising.

Dated: New York, New York  
March 21, 2013

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Michael Chiappetta

866 United Nations Plaza  
New York, New York 10017  
Tel: (212) 813-5900  
Email: [mc@fzlz.com](mailto:mc@fzlz.com)

*Attorneys for Opposer Hachette Filipacchi Presse*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of March, 2013, a true and correct copy of the foregoing  
SECOND SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO APPLICANT  
was served on the Applicant, Lauren R. Schneider by U.S. mail to the following address of  
record for Applicant:

Lauren R. Schneider  
465 North Summit Avenue  
Pasadena, Ca 91103 3719

By:

  
Michael Orappetta



17. Admit that the document annexed hereto as Exhibit B is a true and correct printout of a page from the www.attentionsoldier.com website referenced in your response to Interrogatory No. 8 and produced by you in response to Opposer's First Set of Document Requests.

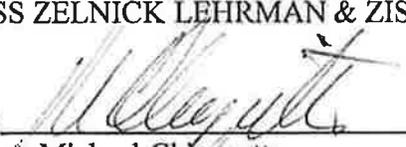
18. Admit that the documents annexed hereto as Exhibit C are documents showing use of your alleged ELLE SCHNEIDER mark "in crediting authorship of work and sometimes on promotional items such as posters," as referenced in your response to Interrogatory No. 4(b).

19. Admit that you claim that the documents annexed hereto as Exhibit C show use of the alleged ELLE SCHNEIDER mark in connection with "film and video production" as set forth in your Application Serial No. 85/240605.

21. Admit that, other than as a credit to identify you, you have never used the phrase ELLE SCHNEIDER as a service mark in connection with any services.

Dated: New York, New York  
March 21, 2013

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 

Michael Chlappetta

866 United Nations Plaza  
New York, New York 10017  
Tel: (212) 813-5900  
Email: [mc@fzlj.com](mailto:mc@fzlj.com)

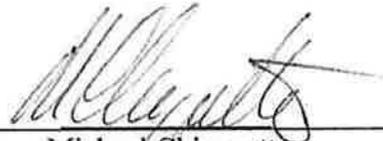
*Attorneys for Opposer Hachette Filipacchi Presse*

CERTIFICATE OF SERVICE

I hereby certify that on this 21<sup>st</sup> day of March, 2013, a true and correct copy of the foregoing  
SECOND SET OF REQUESTS FOR ADMISSION TO APPLICANT was served on the  
Applicant, Lauren R. Schneider by U.S. mail to the following address of record for Applicant:

Lauren R. Schneider  
465 North Summit Avenue  
Pasadena, Ca 91103 3719

By:

  
Michael Chiappetta

# EXHIBIT A



ELLE SCHNEIDER

# EXHIBIT B

## NEWS

[6/12 VidCon Panel](#)

[5/12 'ONE SMALL STEP' at Cannes](#)

[9/11 VIVE European premiere in Sarajevo](#)

[9/11 Vogue's 'Watch Me' Milano](#)

[8/11 'CLASSIC' at The Happening Gallery](#)

## SUBSCRIBE

// [flickr](#) // [twitter](#) // [vimeo](#)  
 // [imdb](#) // [youtube](#) // [rss](#)

## CONTACT

by email  
[info@attentionsoldier.com](mailto:info@attentionsoldier.com)

We do not accept unsolicited materials under any circumstances, and any unsolicited materials received will be deleted unread and the author blocked from future email & social media contact. Thank you for your understanding.

## // ABOUT US

Since 2000, Attention Soldier has produced fashion, short narrative, and documentary film projects including the award-winning drama *Confession* (2006) and experimental fashion film *Vêtements Electroniques* (2011).

In 2011, AS became the in-house production company for Digital Bolex, who launched the D16, the first digital cinema camera by renowned camera manufacturer Bolex, at the 2012 SXSW Film Festival. Learn more at [www.digitalbolex.com](http://www.digitalbolex.com).

[Elie Schneider](#) Director, Producer

is a filmmaker, photographer, and new media designer from New York City now based in Los Angeles. Elie's films and photographs have been exhibited internationally, including a 2011 show in Milan by *Vogue Italia* as part of Fashion's Night Out, and her work in game design has been mentioned in the *Los Angeles Times*. Her latest short film, *One Small Step*, is the first film shot on the new Digital Bolex D16 and had its world premiere at the 2012 Cannes Film Festival.

### PRESS

#### DIGITAL BOLEX

The Creators Project The Digital Bolex Camera is A Crowdfunded Filmmaking Revolution

Mashable The Digital Bolex Reinvents a Classic Camera for the 21st Century

Mashable Retro Digital Cinema Camera Is a Hit on Kickstarter

Engadget Bolex Camera project raises nearly \$250,000 in a single day

PBS POV Introducing the Digital Bolex

CNET Australia Digital Bolex camera brings 2K recording to everyone

Turnstyle News Digital Bolex: Back to the Future of Film

UV Magazine What Exactly Is A Digital Bolex? Fusing Past and Present, D16 Records 2K for Under \$3K

Zacuto.com Digital Bolex -- Viva la Revolution!

Philpbloom.net The Digital Bolex D16, Raw 2K for less than a cost of a 5Dmk3?

Livestream Digital Bolex: Live from NAB

SlashGear Digital Bolex D16 camera looks like the 70s

Beast.com Digital Bolex Cinema Camera

#### ALIOMI

// *BlindSpecs* (8/10)  
 Vintage Lives

// J+J blog (7/10)  
 Not just a brand, but a lifestyle too

// John Simon Daily (7/10)  
 ALIOMI Launch Party at The Gates

// *Scene B Sean* (7/10)  
 ALIOMI Launch Party at The Gates

// *Seventeen* (7/10)  
 ALIOMI Website Launch Event

#### CONFESSION

// *New West* (6/06)  
 DCS Taps Albuquerque Screenwriters

// *McVieBytes* (6/05)  
 DCS Announces Winning Scripts

[vimeo](#) [youtube](#) [tomgraff](#)

© 2006 - 2012 not to be reproduced without permission.

# EXHIBIT C

# CONFESSION

Produced as one of the seven short films of the 2006 *Duke City Shootout* film festival in Albuquerque, New Mexico, *Confession* is the story of two men's redemption, found in the worst of times under the most unlikely of circumstances.

Miguel Martinez and Rob deBuck star as two criminals who find themselves at odds on either side of a church confessional. Hidden deep beneath countless lies and false impressions, a few real confessions surface about life, death, and accepting one's fate.

*Confession* had its world premiere on July 29th, 2006, in downtown Albuquerque with an estimated 1,400 people in attendance. Along with the other six entries, *Confession* was made legally available for download on the Bittorrent website, and remained in its top ten most downloaded films for over two months.

ENGLISH Stereo \* Approx. Run Time: 10 Minutes \* Color \* 2006 \* Unrated

DFI PRESENTS

IN ASSOCIATION WITH THE DUKE CITY SHOOTOUT AN ATTENTION SOLDIER! PRODUCTION AN ELLE SCHNEIDER FILM  
MIGUEL MARTINEZ ROB DeBUCK "CONFESSION" WITH JEFF CAUDLE MUSIC BY CHRIS DOBBS EDITED BY REUBEN FINKELSTEIN  
EXECUTIVE PRODUCER JIM CRAEGER AND TONY DELLAFLORA PRODUCED BY MARIE GARDNER AND CHAD TRAVIS



WRITTEN AND DIRECTED BY ELLE SCHNEIDER  
DUKECITYSHOOTOUT.ORG ATTENTIONSOLDIER.COM



AN ATTENTION SOLDIER!  
PRODUCTION 2006

CONFESSION © 2006 Attention Soldier Productions and the Digital Filmmaking Institute. All Rights Reserved. Package Design © 2006 Elle Schneider. All Rights Reserved. Licensed for distribution only in the United States and Canada. Distributed by Attention Soldier Productions, and the Digital Filmmaking Institute. WARNING: Federal law prohibits selling and rent digital products for the unauthorized reproduction, distribution or exhibition of copyrighted motion picture videotapes, laser discs and DVDs. Criminal copyright infringement is investigated by the FBI, and may result in a felony with a maximum penalty of up to five years in prison and/or a \$500,000 fine. This copy licensed for film festival and personal exhibition only. Any other public performance, copying or other use is strictly prohibited. All Rights Reserved. PRINTED IN USA



rob debuck

miguel martinez

# CONFESSION



# CONFESSION

a film by elle schneider

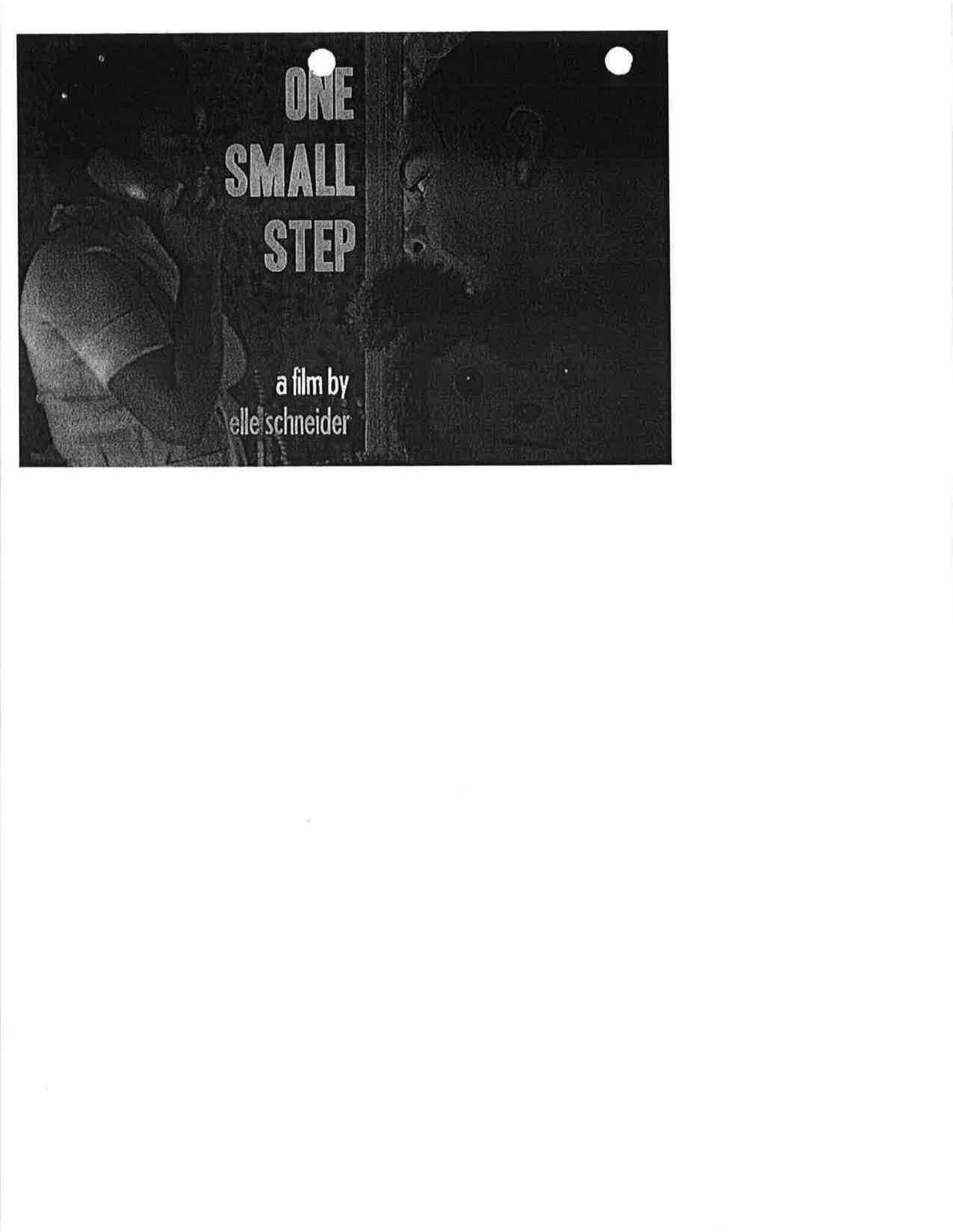
*not de buck*  
*miguel martinez*

**DVD**  
VIDEO  
DVD-R



**CONFESSION**  
*a film by elle schneider*





ONE  
SMALL  
STEP

a film by  
elle schneider



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 85,240,605  
Published in the *Official Gazette* on June 21, 2011  
Mark: ELLE SCHNEIDER

----- X  
Hachette Filipacchi Presse, :  
: :  
Opposer, :  
: :  
v. : Opposition No. 91,202,984  
: :  
Lauren R. Schneider, :  
: :  
Respondent. :  
----- X

**RESPONSE TO REQUESTS**

Respondent, Lauren R. Schneider (hereinafter the "Respondent") hereby answers the Second Set of Requests for Admission of Hachette Filipacchi Presse (hereinafter the "Opposer").

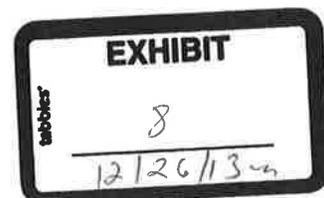
16. Admit that the document annexed hereto as Exhibit A is a true and correct depiction of your business card produced by you in response to Opposer's First Set of Document Requests.

ANSWER: Respondent admits that Exhibit A is a true and correct depiction of one of Respondent's business cards.

17. Admit that the document annexed hereto as Exhibit B is a true and correct printout of a page from the www.attentionsoldier.com website referenced in your response to Interrogatory No. 8 and produced by you in response to Opposer's First Set of Document Requests.

ANSWER: Respondent admits that the document annexed hereto as Exhibit B is a true and correct printout of a page from the www.attentionsoldier.com website as of the date of printing. It has since been updated so is not the most accurate live version of the site.

18. Admit that the documents annexed hereto as Exhibit C are documents showing use of your alleged ELLE SCHNEIDER mark "In crediting authorship of work and sometimes on promotional items such as posters," as referenced in your response to Interrogatory No. 4(b).



ANSWER: Respondent admits that the documents annexed hereto as Exhibit C are documents showing use of Respondent's ELLE SCHNEIDER mark "In crediting authorship of work and sometimes on promotional items such as posters," as referenced in your response to Interrogatory No. 4(b).

19. Admit that you claim that the documents annexed hereto as Exhibit C show use of the alleged ELLE SCHNEIDER mark in connection with "film and video production" as set forth in your Application Serial No. 85/240605.

ANSWER: Respondent admits that the documents annexed hereto as Exhibit C show use of the ELLE SCHNEIDER mark in connection with "film and video production" as set forth in Respondent's Application, particularly the last document in Exhibit C, the poster of ONE SMALL STEP, which was a work-for-hire film solicited by the client on the strength of previous projects bearing the ELLE SCHNEIDER mark and the services associated with that mark.

20. Admit that, other than as a credit to identify you, you have never used the phrase ELLE SCHNEIDER as a service mark in connection with any services.

ANSWER: Respondent admits that in the entertainment industry (and frequently in the fashion industry, as the Opposer is undoubtedly familiar with) an identifying credit and service mark are often synonymous, and as such, the identifying credit is in itself a use of a service mark in connection with a service.

The service mark that shares the name of an individual denotes a standard of quality associated with the personal participation that individual in the service being provided; in hiring the individual, one is hiring the quality of product denoted by the service mark.

Submitted,

Lauren R. Schneider, Respondent

/lrs/

Dated: Los Angeles, California  
August 23rd, 2013

465 N Summit Avenue,  
Pasadena, CA, 91103

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by email upon Michael Chiappetta of FROSS ZELNICK LEHRMAN & ZISSU, P.C., Attorneys for Opposer, this 23<sup>rd</sup> of August 2013.

Lauren R. Schneider, Respondent

/lrs/  

---



ELLE SCHNEIDER DIRECTOR / WRITER  
elle@attentiontosoldiers.com

**EXHIBIT**

tabbies

9

12/26/13 2