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

Proceeding	91203410
Party	Plaintiff The Plubell Firm, LLC
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Submission	Other Motions/Papers
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Date	08/07/2012
Attachments	Objection to July Order.pdf (4 pages)(121574 bytes)

(Emphasis added; Order at 7). Respondent respectfully submits that its Motion cannot be found to be both denied and found moot at the same time, and objects to the Board's July 19 Order as to this narrow point.

Respondent further submits that it had no obligation to address by a motion for reconsideration or Petition to the Director the May 7 Order as Respondent had no reason to believe that the Motion was "denied" rather than rendered "moot" by the Board. In other words, the Board found Respondent's Motion to be *moot* – not denied – by extending the discovery period through consolidation and outlined procedures for further depositions, including depositions that the Board recognized could be related to the "issues of corporate ownership which underlie the new fraud claims". Thus, Respondent had no idea that the Board would take the position that it does in its July 19 Order that "TPF is barred from raising defects in Ms. Wang's testimony as a reason to compel deposition of a different witness."

There is no doubt that Ms. Wang identified Mr. Krause repeatedly as the person most knowledgeable about EWB's trademark filings, and that Respondent has a right to depose Mr. Krause as a fact witness in light of Mr. Krause's role related to those filings and the new counterclaims.¹ While Respondent does not necessarily need to rely on Ms. Wang's lack of knowledge as a 30(b)(6) witness as to these issues since Mr. Krause is being deposed as a fact witness, it should not be "barred" from arguing this point on the basis that it waived its right to do so.

¹ These arguments will be outlined in Respondent's Opposition to Petitioner East West Bank's Motion for a Protective Order Regarding the Deposition of Douglas Krause, filed concurrently herewith.

Accordingly, Respondent respectfully submits its objection and request that the Board clarify this limited aspect of the July 19 Order.

Date: August 7, 2012

Respectfully submitted,
NATH, GOLDBERG & MEYER



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CERTIFICATE OF SERVICE

This is to certify that I am on this 1 of August, 2012 serving a copy of the within and foregoing upon the Petitioner's attorneys via electronic mail return receipt requested, addressed as follows: tchan@foxrothschild.com; lkarczewski@foxrothschild.com; cliu@foxrothschild.com; acraig@foxrothschild.com; and IPDocket@foxrothschild.com.



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Date: August 1, 2012

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