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Filing date: **10/19/2015**

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

Proceeding	91204122
Party	Plaintiff Empire State Building Company L.L.C.
Correspondence Address	ERIC J SHIMANOFF COWAN LIEBOWITZ & LATMAN PC 1133 AVENUE OF THE AMERICAS NEW YORK, NY 10036 UNITED STATES ejs@cll.com, lmr@cll.com, wmb@cll.com, trademark@cll.com, fxm@cll.com, mlk@cll.com
Submission	Other Motions/Papers
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Signature	/Lindsay Rodman/
Date	10/19/2015
Attachments	Opposer's motion to extend deadline to file reply trial brief.pdf(27960 bytes )



Dated: New York, New York  
October 19, 2015

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.  
*Attorneys for Opposer*

By: /Eric J. Shimanoff/  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing OPPOSER’S MOTION TO EXTEND THE DEADLINE TO FILE OPPOSER’S REPLY TRIAL BRIEF, including the supporting Declaration of Eric J. Shimanoff, Esq., was mailed on October 19, 2015 via First Class Mail, postage prepaid, to counsel for Applicant at the address below, with a courtesy copy sent via email to davidyanlawfirm@yahoo.com:

David Yan, Esq.  
Law Offices of David Yan  
136-20 38<sup>th</sup> Avenue, Suite 11E  
Flushing, New York 11354-4232

Dated: New York, New York  
October 19, 2015

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/Eric J. Shimanoff/  
Eric J. Shimanoff

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

In re Application Serial No. 85/213,453  
Filed: January 8, 2011  
For Mark: NYC BEER LAGER and Design  
Published in the Official Gazette: December 6, 2011

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ESRT EMPIRE STATE BUILDING, L.L.C.,	:	
	:	Opposition No. 91204122
Opposer,	:	
	:	
v.	:	
	:	
MICHAEL LIANG,	:	
	:	
Applicant.	:	
-----	X	

**DECLARATION OF ERIC J. SHIMANOFF  
IN OPPOSITION TO APPLICANT’S MOTION TO STRIKE**

ERIC J. SHIMANOFF, pursuant to 28 U.S.C. §1746, declares:

1. I am an attorney with Cowan, Liebowitz & Latman, P.C., attorneys for Opposer. I submit this declaration in support of Opposer’s motion for an Order pursuant to Fed. R. Civ. P. 6(b)(1) and TBMP §509.01 extending the November 4, 2015 deadline for Opposer to file its reply trial brief, if any, by twelve days until and including November 13, 2015. I make this declaration based on my personal knowledge and/or review of my firm’s files and records, and if called as a witness am competent to testify to the matters herein. No prior request for such an extension has been made by Opposer.

2. In accordance with the Board’s order of January 20, 2015 denying summary judgment, the trial period, including the date for Opposer’s rebuttal testimony period, closed on July 11, 2015.

3. Pursuant to 37 CFR § 2.128 and TBMP § 801.02, the original deadline: for Opposer to submit its trial brief was September 9, 2015; for Applicant to submit its opposition trial brief was October 9, 2015; and for Opposer to submit its reply trial brief was October 24, 2015.

4. I set my work and vacation schedule around these original deadlines, such that all briefing would be complete by October 24, 2015. To that end, I scheduled (1) a summary judgment hearing in a trademark case pending in federal court in Detroit on October 30, 2015, which will require travel to Michigan on the date of the hearing and significant preparation in the days prior, and (2) a family vacation the following week, returning to the office on Monday, November 9, 2015.

5. Opposer timely filed and served its trial brief on September 8, 2015, one day prior to its deadline.

6. Applicant did not file his opposition trial brief by October 9, 2015. Instead, on October 7, 2015, two days before his brief was due, Applicant filed a motion to strike Opposer's pretrial disclosures.

7. On Friday, October 16, 2015, the Board denied Applicant's motion to strike Opposer's pretrial disclosures and reset Applicant's opposition trial brief deadline for October 20, 2015—essentially providing Applicant with an extra eleven days to file and serve his brief.

8. Under the new Order, Opposer's deadline to file a reply trial brief, if any, is November 4, 2015.

9. As noted above, I arranged my work and vacation schedule to coordinate with the original briefing schedule. My previously-arranged work and vacation schedule would interfere with my ability adequately to file a reply brief by November 4, 2015.

10. I therefore respectfully request that the Board extend Opposer's deadline to file a reply trial brief, if any, until Monday, November 16, 2015.

11. This extension of twelve days also would provide to Opposer nearly the same extension of time Applicant effectively received to file and serve his own opposition trial brief.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON OCTOBER 19, 2014 AT NEW YORK, NEW YORK.



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ERIC J. SHIMANOFF