

ESTTA Tracking number: **ESTTA603602**

Filing date: **05/12/2014**

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

Proceeding	91211530
Party	Plaintiff J-Lynn Entertainment, LLC
Correspondence Address	NEADOM T MEDINA J LYNN ENTERTAINMENT LLC PO BOX 12365 Mill Creek, WA 98012 UNITED STATES tamar@j-lynnentertainment.com
Submission	Other Motions/Papers
Filer's Name	Neadom T Medina
Filer's e-mail	tamar@j-lynnentertainment.com
Signature	/Neadom T Medina/
Date	05/12/2014
Attachments	Responses_to_Applicant's _First_Set_of_Admissions_to_Opposer_Opposition_91211530.pdf(35769 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
The Trademark Trial and Appeal Board**

Registration No. 3682041
For the mark ADVENTURES OF SHADOW,

J-Lynn Entertainment, LLC,	:	
	:	
Petitioner,	:	
	:	Opposition No. 91211530
	:	(Parent)
	:	
vs.	:	Cancellation No. 92056491
	:	(Child)
William T. Odonnell,	:	
	:	
Registrant.	:	

**OPPOSER’S RESPONSES TO APPLICANT’S REQUEST FOR FIRST SET OF ADMISSIONS
TO OPPOSER**

COMES NOW Opposer J-Lynn Entertainment LLC and provides the following responses to Applicant William T. Odonnell (Applicant) and through counsel, The Trademark Company, PLLC, requests for Admissions in accordance with F.R.Civ.P.36(a). J-Lynn Entertainment LLC (Opposer) also includes a packet of figures along with an audio CD of the Applicant making threats and demands to the Opposer to support these following responses.

Responses & Objections

REQUEST NO.1: Admit that Applicant’s Marks and Opposer’s Mark are not identical in appearance.

RESPONSE: J-Lynn Entertainment (Opposer) admits that the Applicant’s Mark and Opposer’s Mark are not physical similar, but do share similarities. Although, the Applicant has contacted the Opposer stating that Opposer’s Mark is infringing on the Applicant’s Mark (Listen to FIG 1 on CD, audio of William T. Odonnell (Applicant), see FIG 2, see FIG 3) and doing so the Applicant indicates that the Marks are the same. So under the threat of legal action and harassment from the Applicant, J-Lynn Entertainment (Opposer) must treat both Applicant’s Mark and Opposer’s Mark as the same.

REQUEST NO.2: Admit that Applicant's Marks and Opposer's Mark are not identical in connotation.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that the Applicant's Mark and Opposer's Mark is not identical in connotation. Because, the Applicant has contacted the Opposer stating that Opposer's Mark is infringing on the Applicant's Mark and seems to state that they are identical in connotation (Listen to FIG 1 on CD, audio of William T. Odonnell (Applicant), see FIG 2, see FIG 3). So under the threat of legal action and harassment from the Applicant, J-Lynn Entertainment (Opposer) must treat both Applicant's Mark and Opposer's Mark as the same.

REQUEST NO.3: Admit that Opposer retains no evidence of actual confusion occurring as between goods offered in connection with Applicant's Marks and goods and/or offered by Opposer under Opposer's Mark.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Opposer retains no evidence of actual confusion occurring as between goods offered in connection with Applicant's Marks and goods and/or offered by Opposer under Opposer's Mark. Because, the Applicant has contacted the Opposer stating that Opposer's Mark is infringing on and stealing the Applicant's Mark. Because of this, there is obvious confusion especially since it is coming from one of the Marks owners William T. Odonnell (Listen to FIG 1 on CD, audio of William T. Odonnell (Applicant), see FIG 2, see FIG 3). So there is ample evidence of confusion coming directly from the Applicant.

REQUEST NO.4: Admit that Applicant is still using Applicant's Marks.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Applicant is still using the Applicant's Marks. At the time of filing these cancellation and opposition proceedings the Opposer could not find evidence that the Applicant was using it's Marks or had even used it's Marks legitimately in commerce. The fact, that after one Written Discovery Request to the Applicant from the Opposer, the Applicant objected to most of the requests and did not provide any definitive evidence that the Mark was currently been used in commerce or previously used in commerce. These were requests that should have

been easily provided if the Applicant had really been selling his products in all four categories of commerce since his first claimed date of use. Some evidence supplied in first Written Discovery appeared to have been altered. A second request for Written Discovery the Applicant failed to supply even after a 30 plus day extension. In light of these failures to supply evidence and that evidence has been altered of the Applicant's use of the Mark in commerce, the Opposer cannot admit that the Applicant's Mark was ever used in commerce and currently is used in commerce, and questions the authenticity of any evidence the Applicant presents that the Mark was ever used.

REQUEST NO.5: Admit that Applicant has not abandoned its trademarks.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Applicant has not abandoned its trademarks due to the fact that at the time of filing these proceedings the Opposer could not find items for sale in the context of what the Applicant's Marks are registered for and that the Applicant's website (see FIG2, FIG 3) stated coming soon indicating that products were not yet available. There was no evidence that the Applicant had been selling items and continuously selling them since the first claim of use in commerce.

REQUEST NO.6: Admit that Opposer retains no evidences to establish that Applicant committed fraud to the Trademark Office in filing its applications to register Applicant's Marks.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Opposer retains no evidences to establish that Applicant committed fraud to the Trademark Office in filing its applications to register Applicant's Marks. The Opposer believes it has ample evidence to prove fraud, and could not find legitimate items for sale proving bona fide use of the Applicant's Mark in commerce at the time these proceedings were filed. The Applicant claims in their trademark application Serial #85785996 for the Goods and Services category of clothing, that they had T-Shirts/Clothing first use of commerce on 8-29-2007. Prior to these proceedings being filed we could find no shirts for sale presently and in the past. Also the Applicant never mentioned he had been selling shirts since 2007 in any of his email threats to us or

his conversation with our investigator (see FIG1, FIG2, FIG3, FIG4, FIG5, FIG6, FIG7, FIG 11, FIG 12). We did find an image posted after the Applicant filed for his Mark for T-Shirts and Clothing (see FIG 8). It is a fake image of a shirt with an Adventures of Shadow logo super imposed or photoshopped onto a white shirt posted on the Applicant's Facebook page which could find no where for sale at that time. We believe this to be the fake specimen that the Applicant may have submitted to the USPTO (see FIG 8).

REQUEST NO.7: Admit that Opposer retains no evidence that Applicant knowingly made a false, material representation to the USPTO.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Opposer retains no evidence that Applicant knowingly made a false, material representation to the USPTO. At the time these proceedings were filed the Opposer could not find any present or past use of the Mark in commerce. During the Opposer's investigation the Applicant states that he still has to train his dogs and shoot video (see FIG 2, see FIG 12). So the Opposer states the question to the Applicant and the USPTO, how can material be provided to the USPTO if it's never been filmed?

REQUEST NO.8: Admit that Opposer retains no evidence that Applicant Marks were fraudulently obtained.

RESPONSE: J-Lynn Entertainment (Opposer) does not admit to this request that Opposer retains no evidence that Applicant Marks were fraudulently obtained. At the time these proceedings were filed the Opposer could not find any present or past use of the Mark in commerce. During the Opposer's investigation the Applicant states that he still has to train his dogs and shoot video (see FIG 2). So the Opposer states the question to the Applicant and the USPTO, how can material be provided to the USPTO if it's never been filmed? We also state that the shirt (see Fig 8) is a fake that as a graphical logo of the Applicant's Mark super imposed or Photoshopped on a black white t-shirt image found on the internet. The smoking gun is a set of emails provided by the Applicant during a written discovery (see FIG 12) where the applicant is discussing about having water bottles made between the dates of August

28th 2007 to September 4th 2007. The Applicant claims that his first use of the Mark being used in commerce for all his registrations was August 29th 2007. Yet these emails show that no items have yet to be manufactured, paid for, or produced on this proclaimed date of first use in commerce on August 29th 2007. There is absolutely no mention of t-shirts, films, videos, books, etc categories of goods and services that the Applicant's Marks are registered for. Just the Applicant mentioning that once the water bottles are made, the Applicant can register for a trademark. Yet the Opposer would like to ask how is this not fraud against the Trademark Office when the Applicant claims to have started selling products using his Mark under four categories of goods and services during this time, yet his emails indicate nothing had even been produced? The Opposer furthermore believes the Applicant should be banned from filing trademarks due to fraud and abuse.

Respectfully submitted on May 12, 2014

J-Lynn Entertainment, LLC
/Neadom T Medina/
Neadom T Medina
PO BOX 12365
Mill Creek, WA 98082
440-610-5827
tamar@j-lynnentertainment.com
Petitioner

