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

Proceeding	91211530
Party	Defendant William T. Odonnell DBA Odonnell Entertainment
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Submission	Opposition/Response to Motion
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Date	05/27/2014
Attachments	opposition to motion to strike.pdf(101409 bytes)

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

Serial No. 85/785,996
For the mark ADVENTURES OF SHADOW,

Registration No. 3,991,181
For the mark ADVENTURES OF SHADOW,

J-Lynn Entertainment, LLC,	:	
	:	
Opposer,	:	
	:	
vs.	:	Opposition No. 91211530 (Parent)
	:	Cancellation No. 92056491 (Child)
William T. Odonnell, d/b/aOdonnell Entertainment,	:	
	:	
Applicant.	:	

OPPOSITION TO MOTION TO STRIKE

COMES NOW the Applicant, William T. Odonnell, (hereinafter “Applicant”), by counsel, The Trademark Company, PLLC, and and submits the instant opposition to Opposer, J-Lynn Entertainment, LLC’s (hereinafter “Opposer) Motion to Strike Applicant’s Requests for Admissions served upon Opposer.

STATEMENT OF FACTS

1. On or about April 18, 2013 Applicant served its First Set of Discovery Requests on Opposer, including Applicant’s First Set of Requests for Admissions served to Opposer pursuant to F. R. Civ. P. 36(a), which are the subject of Opposer’s instant Motion to Strike.
2. The deadline for Opposer to serve its responses to Applicant’s First Set of Discovery Requests was May 23, 2014.

3. On or about May 8, 2014 Opposer filed a Motion to Strike Applicant's Requests for Admissions served upon Opposer, a copy of Applicant's First Set of Requests for Admissions, and a copy of Opposer's Responses to Applicant's First Set of Requests for Admissions.

4. On or about May 15, 2014 Applicant received Opposer's Responses to Applicant's Discovery Requests via U.S. Mail, including, but not limited to Opposer's Responses to Applicant's Requests for Admissions.

5. The instant opposition is now filed.

ARGUMENT

As grounds for filing the instant Motion Strike the request of and use of Applicant's First Set of Requests for Admissions, Opposer alleges that Applicant's First Set of Requests for Admissions were served to Opposer to hinder the Opposer's case before it has a chance to submit evidence during trial. Opposer also alleges that Applicant's Request for Admissions were a carefully worded attempt by the Applicant's Counsel to set up an opportunity for Applicant to file a Motion to Strike Evidence presented by Opposer.

Applicant's Requests for Admissions were constructed in a way to obtain relevant information reasonably calculated to lead to the discovery of admissible evidence in the instant proceeding. Further, Applicant's Requests for Admissions were in compliance with TBMP § 402.01, Fed. R. Civ. P. 36(a), which in turn refers to Fed. R. Civ. P. 26(b)(1), of which collectively govern the scope and nature of discovery requests including requests for admissions, in inter partes proceedings before the Board.

Moreover it is important to note that pursuant to TBMP § 407.03(b): "it is generally inappropriate for a party to respond to requests for admission by filing a motion attacking them,

such as a motion to strike, a motion to suppress, a motion for a protective order, etc.”

Furthermore, Opposer did not make any good faith efforts to resolve this discovery issue with Counsel for Applicant prior to the filing of the instant Motion to Strike with the Board. Opposer has filed its Responses to Applicant’s First Set of Admissions with the Board of which do not set forth any relevant general objections to these requests.

In sum, Applicant Requests for Admissions were timely served to Opposer pursuant to and in accordance with F. R. Civ. P. 36(a) and TBMP § 402.0 seeking relevant information reasonably calculated to lead to the discovery of admissible evidence in the instant proceeding rendering the basis upon which Opposer has filed the instant Motion to Strike meritless.

CONCLUSION

WHEREFORE Petitioner respectfully requests the Board deny Opposer’s Motion to Strike Applicant’s Requests for Admissions.

DATED this 27th day of May, 2014.

THE TRADEMARK COMPANY, PLLC

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For the mark ADVENTURES OF SHADOW,

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For the mark ADVENTURES OF SHADOW,

J-Lynn Entertainment, LLC,

Opposer,

vs.

William T. Odonnell, d/b/aOdonnell Entertainment,

Applicant.

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Opposition No. 91211530 (Parent)
Cancellation No. 92056491 (Child)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing this 27th of May, 2014, to be served, via first class mail, postage prepaid, upon:

NEADOM T MEDINA
J LYNN ENTERTAINMENT LLC
PO BOX 12365
Mill Creek, WA 98012

/Matthew H. Swyers/
Matthew H. Swyers