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Filing date: **06/11/2015**

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	06/11/2015
Attachments	Deposition_of_Robert_Louis_Holmes_Jr_12-03-2014.pdf(398400 bytes)

In the Matter Of:

ROB HOLMES OF IPCYBER CRIME, INC.

ROBERT LOUIS HOLMES, JR.

December 03, 2014



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IN RE: ROB HOLMES OF IPCYBER
CRIME, INC.

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DEPOSITION OF  
ROBERT LOUIS HOLMES, JR.

DECEMBER 3, 2014

9:06 A.M.

1990 SOUTH BUNDY, SUITE 540,  
LOS ANGELES, CALIFORNIA

DAVID SANCHEZ, CSR NO. 5620

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APPEARANCES OF COUNSEL

FOR J-LYNN ENTERTAINMENT, LLC:

J-LYNN ENTERTAINMENT, LLC:  
TAMAR NEDOM MEDINA, ESQ.  
18705 20TH AVENUE  
BOTHHELL, WASHINGTON 98012  
(440) 610-5827  
TAMARA@J-LYNNENTERTAINMENT.COM

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I N D E X

WITNESS: ROB LOUIS HOLMES, JR.

| EXAMINATION   | PAGE |
|---------------|------|
| BY MR. MEDINA | 5    |

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INDEX TO EXHIBITS

EXHIBITS

MARKED

(NO EXHIBITS MARKED)

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LOS ANGELES, CALIFORNIA;  
WEDNESDAY, DECEMBER 3, 2014; 9:06 A.M.

ROB LOUIS HOLMES, JR.,  
HAVING BEEN FIRST DULY SWORN, TESTIFIES AS FOLLOWS:

EXAMINATION

BY MR. MEDINA:

Q. MR. HOLMES, WHAT IS YOUR FULL LEGAL NAME?

A. ROBERT LOUIS HOLMES, JUNIOR.

Q. AND WHAT IS YOUR OCCUPATION?

A. I'M A PRIVATE INVESTIGATOR.

Q. AND HOW MANY YEARS OF EXPERIENCE DO YOU HAVE IN THIS  
PROFESSION?

A. NINETEEN YEARS.

Q. NINETEEN YEARS.

WHEN YOU DO THESE INVESTIGATIONS DO THEY INCLUDE FRAUD  
OR MISLEADING PRODUCTS?

A. YES.

Q. SO IS IT SAFE TO SAY YOU'RE AN EXPERT AT INVESTIGATING  
AND IDENTIFYING FRAUD IN COMMERCE?

A. YES.

Q. AND DID YOU INVESTIGATE WILLIAM T. O'DONNELL AND THE  
USE OF HIS MARK ADVENTURES OF SHADOW ON OCTOBER 15TH, 2012?

A. YES.

1 Q. DID YOU SPEAK WITH WILLIAM T. O'DONNELL INQUIRING ABOUT  
2 PRODUCTS USING HIS MARK ADVENTURES OF SHADOW?

3 A. YES.

4 Q. DURING YOUR INVESTIGATION DID YOU FIND ANY CLOTHING ON  
5 SALE USING THE MARK ADVENTURES OF SHADOW?

6 A. NO.

7 Q. WHEN YOU SPOKE TO MR. WILLIAM T. O'DONNELL DID HE OFFER  
8 TO SELL YOU ANY CLOTHING WITH HIS MARK ADVENTURES OF SHADOW WHEN  
9 YOU SPOKE TO HIM?

10 A. NO.

11 Q. OKAY. DURING THE INVESTIGATION DID YOU FIND ANY  
12 VIDEOS, MOVIES OR AUDIO RECORDINGS ON SALE USING THE MARK  
13 ADVENTURES OF SHADOW?

14 A. NO.

15 Q. DID WILLIAM T. O'DONNELL OFFER TO SELL YOU ANY VIDEOS,  
16 MOVIES OR AUDIO RECORDINGS WITH HIS MARK ADVENTURES OF SHADOW  
17 WHEN YOU SPOKE TO HIM?

18 A. NO.

19 Q. WHEN YOU INQUIRED OF MR. O'DONNELL ABOUT HIS PRODUCT,  
20 MR. O'DONNELL SAID "WE DON'T HAVE ANY DVD'S AT THAT MOMENT. THE  
21 ONLY WITH SHADOW IN IT RIGHT NOW IS THE 'LAST ONE OUT TURN OUT  
22 THE LIGHT' WHICH HAS HIM IN THE END NEAR THE LIGHTHOUSE LOOKING  
23 AT THE CAMERA."

24 IS THAT CORRECT?

25 A. YES.

1 Q. SO DID THAT GIVE YOU THE SENSE THAT VIDEOS USING HIS  
2 TRADEMARK ADVENTURES OF SHADOW WERE NEVER MADE OR SOLD IN  
3 COMMERCE OR NEVER SOLD IN COMMERCE?

4 A. YES.

5 Q. DURING THE INVESTIGATION DID YOU FIND ANY WATER  
6 BOTTLES ON SALE USING THE MARK ADVENTURES OF SHADOW?

7 A. NO.

8 Q. DID WILLIAM T. O'DONNELL OFFER TO SELL YOU ANY WATER  
9 BOTTLES WITH HIS MARK ADVENTURES OF SHADOW WHEN YOU SPOKE TO  
10 HIM?

11 A. NO.

12 Q. DURING THAT INVESTIGATION DID YOU FIND ANY FORM OF  
13 BOOKS, FICTIONAL BOOKS, COMICS ON SALE USING THE MARK ADVENTURES  
14 OF SHADOW?

15 A. NO.

16 Q. DID WILLIAM T. O'DONNELL OFFER TO SELL YOU ANY FORM OF  
17 BOOKS, FICTIONAL BOOKS AND COMICS WITH HIS MARK ADVENTURES OF  
18 SHADOW WHEN YOU SPOKE TO HIM?

19 A. NO.

20 Q. DO YOU KNOW WHAT CAFE PRESS IS, MR. HOLMES?

21 A. YES.

22 Q. OKAY. ON OCTOBER 15TH, 2012, DID YOU FIND ANY CAFE  
23 PRESS.COM ONLINE STORE SELLING PRODUCTS USING MR. WILLIAM T.  
24 O'DONNELL'S MARK ADVENTURES OF SHADOW?

25 A. NO.

1 Q. COULD YOU FIND ANY LINKS ON MR. WILLIAM T. O'DONNELL'S  
2 WEBSITE TO A CAFE PRESS ONLINE STORE?

3 A. NO.

4 Q. WHEN YOU SPOKE WITH WILLIAM T. O'DONNELL INQUIRING  
5 ABOUT PRODUCTS ON SALE USING HIS MARK, DID MR. O'DONNELL MENTION  
6 THAT HE HAD A CAFE PRESS WEBSITE OR ONLINE STORE?

7 A. NO.

8 Q. OKAY. WILLIAM T. O'DONNELL REGISTERED HIS TRADEMARK IN  
9 CATEGORIES OF CLOTHING, WATER BOTTLES, BOOKS AND FILMS AND  
10 CLAIMS HIS FIRST USE IN COMMERCE WAS ON AUGUST 29TH, 2007.

11 COULD YOU FIND ANY EVIDENCE THAT THESE TYPES OF  
12 PRODUCTS WERE SOLD AND CONTINUOUSLY SOLD SINCE THE DATE OF  
13 AUGUST 29TH, 2007.

14 A. NO.

15 Q. BASED ON PREVIOUS QUESTION AND NOT FINDING OR BEING  
16 OFFERED PRODUCTS WITH THE MARK ADVENTURES OF SHADOW IN THE  
17 CATEGORIES OF CLOTHING, WATER BOTTLES, BOOKS AND FILMS, IS IT  
18 SAFE TO SAY THAT WILLIAM T. O'DONNELL'S MARK IS SUBJECT TO  
19 CANCELLATION OR FRAUD, NON-USE AND ABANDONMENT IF HE TOLD THE  
20 UNITED STATES PATENT AND TRADEMARK OF CHARLES HILLS THAT HIS  
21 FIRST USE OF COMMERCE FOR ALL THESE CATEGORIES OF PRODUCTS WAS  
22 ON AUGUST 29TH, 2007?

23 A. YES.

24 Q. BASED ON YOUR YEARS OF EXPERIENCE INVESTIGATING FRAUD  
25 AND CYBER CRIME DO YOU BELIEVE THAT WILLIAM T. O'DONNELL GAVE

1 FRAUDULENT INFORMATION TO UNITED STATES PATENT AND TRADEMARK  
2 OFFICE CLAIMING THAT ON AUGUST 29TH, 2007 HE BEGAN SELLING  
3 CLOTHING, WATER BOTTLES, BOOKS AND FILMS USING THE TRADEMARK  
4 ADVENTURES OF SHADOW?

5 A. YES.

6 Q. IN YOUR CONVERSATION WITH WILLIAM T. O'DONNELL HE  
7 MENTIONED SOMEONE USING A SIMILAR MARK IN CONJUNCTION WITH A  
8 DOG WOULD BE NAILED. WERE YOU GETTING THE SENSE THAT WILLIAM T.  
9 O'DONNELL WAS HOPING TO SCORE BIG ON THE LAWSUIT OR FOR  
10 LITIGATION USING HIS TRADEMARK ADVENTURES OF SHADOW?

11 A. YES, I DID.

12 Q. IN THE PAST WILLIAM T. O'DONNELL CONTACTED J-LYNN  
13 ENTERTAINMENT THREATENING A LAWSUIT AND A HOSTILE DEMAND OF  
14 J-LYNN ENTERTAINMENT'S DOMAIN NAME BASED ON J-LYNN  
15 ENTERTAINMENT'S TRADEMARK THE ADVENTURES OF SHADOW CAT UNDER THE  
16 CATEGORY OF COMPUTER SOFTWARE. MR. O'DONNELL HAD CONTACTED OTHER  
17 BUSINESSES AND INDIVIDUALS WITH SIMILAR LEGAL THREATS UNDER THE  
18 BELIEF THAT MR. O'DONNELL HAS EXCLUSIVE RIGHTS TO THE WORDS  
19 ADVENTURES AND SHADOW.

20 IS IT SAFE TO SAY WILLIAM T. O'DONNELL IS NOT USING HIS  
21 MARK IN COMMERCE, BUT IS USING HIS MARK TO FILE FRIVOLOUS  
22 LITIGATION AND OBTAIN INTELLECTUAL PROPERTY FROM OTHER PEOPLE  
23 AND BUSINESS?

24 A. YES, I DO.

25 Q. OKAY. ALL RIGHT. AND THAT CONCLUDES MY QUESTIONS.

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THANK YOU VERY MUCH MR. HOLMES FOR COMING IN.  
  
(THE DEPOSITION CONCLUDED AT 9:14 A.M.)  
  
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REPORTER'S CERTIFICATION

I, DAVID SANCHEZ, A CERTIFIED SHORTHAND REPORTER IN AND FOR THE STATE OF CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING WITNESS WAS BY ME DULY SWORN; THAT THE DEPOSITION WAS THEN TAKEN BEFORE ME AT THE TIME AND PLACE HEREIN SET FORTH; THAT THE TESTIMONY AND PROCEEDINGS WERE REPORTED STENOGRAPHICALLY BY ME AND LATER TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION; THAT THE FOREGOING IS A TRUE RECORD OF THE TESTIMONY AND PROCEEDINGS TAKEN AT THAT TIME.

IN WITNESS WHEREOF, I HAVE SUBSCRIBED MY NAME THIS 3RD DAY OF DECEMBER, 2015.



---

DAVID SANCHEZ, CSR NO. 5620

DEPOSITION ERRATA SHEET

OUR ASSIGNMENT NO. 241340

CASE CAPTION: IN RE: ROB HOLMES IPCYBER  
CRIME, INC.

DECLARATION UNDER PENALTY OF PERJURY

I DECLARE UNDER PENALTY OF PERJURY

THAT I HAVE READ THE ENTIRE TRANSCRIPT OF  
MY DEPOSITION TAKEN IN THE ABOVE CAPTIONED MATTER  
OR THE SAME HAS BEEN READ TO ME, AND  
THE SAME IS TRUE AND ACCURATE, SAVE 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.

SIGNED ON THE \_\_\_\_\_ DAY OF

\_\_\_\_\_, 20\_\_\_\_ ,

\_\_\_\_\_

ROB HOLMES

DEPOSITION ERRATA SHEET

PAGE NO. \_\_\_\_\_ LINE NO. \_\_\_\_\_ CHANGE TO: \_\_\_\_\_

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ROB HOLMES

DEPOSITION ERRATA SHEET

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SIGNATURE: \_\_\_\_\_ DATE \_\_\_\_\_

ROB HOLMES

|                        |                       |                     |                      |                        |
|------------------------|-----------------------|---------------------|----------------------|------------------------|
|                        | 7:2,6,9,<br>13,17,24  | 8:2,6               | 9:12,16              | 9:13                   |
| <b>1</b>               | 8:16 9:4,<br>10,15,19 | <b>CALIFORNIA</b>   | <b>CONTINUOUSLY</b>  | <b>ENTERTAINMENT'S</b> |
| <b>15TH</b>            |                       | 5:1                 | 8:12                 | 9:14,15                |
| 5:24 7:22              | <b>ANGELES</b>        | <b>CAMERA</b>       | <b>CONVERSATION</b>  | <b>EVIDENCE</b>        |
|                        | 5:1                   | 6:23                | 9:6                  | 8:11                   |
| <b>2</b>               | <b>AUDIO</b>          | <b>CANCELLATION</b> | <b>CORRECT</b>       | <b>EXAMINATION</b>     |
|                        | 6:12,16               | 8:19                | 6:24                 | 5:7                    |
| <b>2007</b>            | <b>AUGUST</b>         | <b>CAT</b>          | <b>CRIME</b>         | <b>EXCLUSIVE</b>       |
| 8:10,13,<br>22 9:2     | 8:10,13,<br>22 9:2    | 9:15                | 8:25                 | 9:18                   |
| <b>2012</b>            |                       | <b>CATEGORIES</b>   | <b>CYBER</b>         | <b>EXPERIENCE</b>      |
| 5:24 7:22              | <b>B</b>              | 8:9,17,21           | 8:25                 | 5:13 8:24              |
| <b>2014</b>            |                       | <b>CATEGORY</b>     |                      | <b>EXPERT</b>          |
| 5:2                    | <b>BASED</b>          | 9:16                | <b>D</b>             | 5:20                   |
| <b>29TH</b>            | 8:15,24               | <b>CHARLES</b>      |                      | <b>F</b>               |
| 8:10,13,<br>22 9:2     | 9:14                  | 8:20                | <b>DATE</b>          |                        |
|                        | <b>BEGAN</b>          | <b>CLAIMING</b>     | 8:12                 | <b>FICTIONAL</b>       |
|                        | 9:2                   | 9:2                 | <b>DECEMBER</b>      | 7:13,17                |
| <b>3</b>               | <b>BELIEF</b>         | <b>CLAIMS</b>       | 5:2                  | <b>FILE</b>            |
|                        | 9:18                  | 8:10                | <b>DEMAND</b>        | 9:21                   |
| <b>3</b>               | <b>BIG</b>            | <b>CLOTHING</b>     | 9:13                 | <b>FILMS</b>           |
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|                        | <b>BOOKS</b>          | 8:9,17              | 10:2                 | 9:3                    |
| <b>9</b>               | 7:13,17               | 9:3                 | <b>DOG</b>           | <b>FIND</b>            |
|                        | 8:9,17                | <b>COMICS</b>       | 9:8                  | 6:4,11                 |
| <b>9:06</b>            | 9:3                   | 7:13,17             | <b>DOMAIN</b>        | 7:5,12,22              |
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| 10:2                   | 8:9,17                | 8:10,21             | 5:5                  | 8:15                   |
|                        | 9:3                   | 9:21                | <b>DVD'S</b>         | <b>FORM</b>            |
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|                        | 9:23                  | 9:16                | <b>E</b>             | <b>FRAUD</b>           |
| <b>A.M.</b>            | <b>BUSINESSES</b>     | <b>CONCLUDED</b>    |                      | 5:17,21                |
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|                        |                       | <b>CONTACTED</b>    |                      |                        |

|                                        |                                               |                                                                                    |                                                                                                   |                                                      |
|----------------------------------------|-----------------------------------------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|------------------------------------------------------|
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| <b>GAVE</b><br>8:25                    | <b>INVESTIGATI<br/>ON</b><br>6:4,11<br>7:5,12 | <hr/> <b>M</b> <hr/>                                                               | <b>OCCUPATION</b><br>5:11                                                                         | <b>PREVIOUS</b><br>8:15                              |
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|                                        |                                               |                                                                                    | <b>PRESS</b>                                                                                      |                                                      |

|                 |                    |                  |
|-----------------|--------------------|------------------|
| <hr/>           | <b>STATES</b>      | <hr/>            |
| <b>S</b>        | 8:20 9:1           | <b>W</b>         |
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