

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: September 13, 2015

Opposition No. 91211530 (parent)
Cancellation No. 92056491

J-Lynn Entertainment, LLC

v.

William T. Odonnell
dba Odonnell Entertainment

**Robert H. Coggins,
Interlocutory Attorney:**

Now before the Board is plaintiff J-Lynn Entertainment, LLC's ("Opposer") combined motion (filed June 9, 2015) to extend the close of its testimony period and to require defendant William T. Odonnell ("Applicant") to provide the correct/amended exhibit numbers from his testimony deposition, which was taken by Opposer, and to specify which of the exhibits and portions of the deposition transcript relating thereto Applicant has designated as confidential.¹

¹ The certificate of service included with the motion indicates service upon Applicant via email. Inasmuch as electronic service is available only when mutually agreed upon by the parties (*see* Trademark Rule 2.119(b)(6)), the Board prefers that parties reference their agreement in the certificate – for example, by including language such as "by mutual agreement." Upon review of previous, contemporaneous, and later filings in this case, it does not appear that the parties have agreed to service by email. In view thereof, Applicant's brief in opposition (filed June 29, 2015) is considered a timely response.

Telephone Conference

In an effort to efficiently determine the outstanding procedural issues in the case, the Board conducted a telephone conference on September 11, 2015, at approximately 2:30 a.m. EDT. Participating in the conference were Neadom T. Medina, managing member of Opposer; Matthew H. Swyers, counsel for Applicant; and the above-signed Board attorney responsible for resolving the outstanding interlocutory motion in this case.

The Board presumes familiarity with the issues, and for the sake of efficiency this order does not summarize the parties' arguments raised in the motion or briefs, or statements made during the conference. Instead, this order lists the decisions made by the Board.

Prior Confidential Filing

Inasmuch as the Odonnell deposition transcript filed June 11, 2015 (at 49 TTABVUE) contains unredacted matter that Applicant considers confidential, the Board agreed to withhold that filing from public view. In view thereof, Applicant's June 12, 2015 motion seeking to make the June 11th transcript confidential was **granted**.

Motion to Extend and Require Designation

In view of the public copy (at 58 TTABVUE) and confidential copy (at 57 TTABVUE) of the exhibits to the Odonnell deposition, and the confidential copies (at 49 and 56 TTABVUE) of the Odonnell deposition transcript, the outstanding motion was **granted** only to the extent that Applicant must specify for Opposer

which portions of the Odonnell deposition transcript Applicant designates as confidential, so that Opposer may file by October 2, 2015, a public/redacted copy of the Odonnell deposition transcript. This copy is required of Opposer on or before **October 2, 2015**.

The outstanding motion was **denied** to the extent it seeks to extend Opposer's testimony period for the purpose of filing the Odonnell deposition transcript during Opposer's testimony period. Trademark Rule 2.123(f)(2) requiring Opposer to "promptly forward" the transcript to the Board is interpreted as meaning forwarded at any time prior to the submission of the case for final decision. *See* TBMP § 703.01(k) (2015). Moreover, confidential copies of the transcript were already filed.

Waiver of Signatures

The parties agreed to waive the signature requirement for the Odonnell and Medina depositions. Trademark Rule 2.123(e)(5).

Rebuttal Disclosures

Opposer's rebuttal disclosures, filed August 24, 2015 (at 60 TTABVUE) will be given no consideration. A party making pretrial disclosure is generally not required to file a copy of such disclosure with the Board. Moreover, since Applicant took no testimony there is nothing for Opposer to rebut and no need for a rebuttal period.

Settlement

The Board inquired about the possibility of settlement. The parties stated that while they remain open to the possibility of settlement, prior settlement efforts stalled. The Board encouraged settlement, if possible.

Opposer's Brief on the Case

Opposer's main brief, filed August 24, 2015 (at 59 TTABVUE) was acknowledged. Although the brief does not appear to be fully double-spaced as required by Trademark Rule 2.126(b), given its length it is clear that the improper spacing is not an attempt by Opposer to circumvent the fifty-five page limit under Trademark Rule 2.128(b). Similarly, while Opposer included an index of cited cases, the index is not arranged alphabetically. Notwithstanding these procedural defects, the Board will consider the brief.

Schedule

Because there is no need for a rebuttal testimony period, and Opposer's main brief on the case has already been filed, dates were reset on the following schedule which contemplates the remaining briefing deadlines.

Applicant's main brief due:	November 2, 2015
Opposer's reply brief, if any:	November 17, 2015

Briefs shall be filed in accordance with Trademark Rule 2.128(b)

No Oral Hearing

The parties agreed to waive an oral hearing. Trademark Rule 2.129.