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

Proceeding	92053501
Party	Plaintiff Christian M. Ziebarth
Correspondence Address	KELLY K PFEIFFER AMEZCUA-MOLL ASSOCIATES PC LINCOLN PROFESSIONAL CENTER, 1122 E LINCOLN AVE SUITE 203 ORANGE, CA 92865 UNITED STATES kelly@amalaw.net, kelpfeiffer@aol.com
Submission	Other Motions/Papers
Filer's Name	Kelly K. Pfeiffer
Filer's e-mail	kelly@amalaw.net
Signature	/Kelly K. Pfeiffer/
Date	10/04/2013
Attachments	Ziebarth v. Del Taco Stipulation re Testimony (fully executed).pdf(1527075 bytes )

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

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

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CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC  
Registrant.

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Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**STIPULATION**

Petitioner CHRISTIAN M. ZIEBARTH and Registrant DEL TACO, LLC hereby stipulate to the following:

1. The testimony of any witness or witnesses of either party, and exhibits thereto, may be submitted in the form of an affidavit by such witness or witnesses pursuant to 37 C.F.R. §2.123(b). The non-submitting party reserves the right to conduct live cross-examination of the affiant, and the submitting party reserves the right to conduct live redirect examination in the event the adverse party exercises his option to conduct cross-examination. If the non-submitting party would like to exercise his option to conduct live cross-examination of the affiant, the non-examining party shall serve a Notice of Cross-Examination Testimony Deposition ("Notice of

Cross-Examination”) within 15 days after being served with the affidavit. Any live cross-examination or redirect-examination may be conducted via telephone or video. The Notice of Cross-Examination must be served in accordance with the applicable Trademark Rules and the Federal Rules of Civil Procedure, and shall state whether the noticing party elects to conduct the deposition in person, by telephone or by video. Nothing herein shall preclude any party from objecting to the Notice of Cross-Examination on procedural grounds, such as inadequate or improper notice, or on substantive grounds, such as relevancy or burdensome, under the Trademark Rules and the Federal Rules of Civil Procedure. The parties will work together in good faith to promptly schedule any noticed depositions within ten (10) days on a mutually agreeable date. Any redirect examination will be taken during the same session. The party offering direct testimony via affidavit will not be allowed to offer redirect testimony by affidavit for that witness if a cross-examination deposition is conducted. Both parties reserve the right to make any and all objections to the submitted affidavit testimony, and both parties reserve the right to file any Motions in Limine based upon the submitted affidavit testimony.

2. If the receiving party does not timely serve a Notice of Cross-Examination, the receiving party must serve, in writing, within twenty (20) days of the date of service of the affidavit testimony any and all objections to the affidavit testimony as required by TBMP Section 707 (“Written Objections”). This procedure will not preclude the parties though from the filing of any Motions to Strike or Motions in Limine on grounds related to testimony in the affidavit but not specifically objected to in the Written Objections.

3. The parties agree that they will jointly move the Board to extend or suspend the testimony periods, as necessary, in order to accommodate the cross-examination and any redirect-examination by deposition.

Date: 9-19-13

  
Attorney for Registrant Del Taco, LLC  
April L. Besl  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

Date: 9-20-13

  
Attorney for Petitioner Christian M. Ziebarth  
Kelly K. Pfeiffer  
AMEZCUA-MOLL & ASSOCIATES, P.C.  
Lincoln Professional Center  
1122 E. Lincoln Ave., Suite 203  
Orange, CA 92865

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing **STIPULATION** was served upon April L. Besl, DINSMORE & SHOHL, LLP , attorney of record for the Registrant in this action by depositing one copy thereof in the United States mail, first-class postage prepaid on October 4, 2013 and addressed as follows:

April L. Besl, Esq.  
DINSMORE & SHOHL, LLP  
255 East Fifth Street, Suite 1900  
Cincinnati, OH 45202

/Kelly K. Pfeiffer/  
Kelly K. Pfeiffer  
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Attorney for Petitioner CHRISTIAN M. ZIEBARTH