

ESTTA Tracking number: **ESTTA629413**

Filing date: **09/26/2014**

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

Proceeding	92057058
Party	Defendant Island Food & Fun, Inc.
Correspondence Address	ELIZABETH T RUSSELL LAW OFFICE 6907 UNIVERSITY AVE # 227 MIDDLETON, WI 53562-2767 UNITED STATES beth@erklaw.com
Submission	Other Motions/Papers
Filer's Name	Elizabeth T Russell
Filer's e-mail	beth@erklaw.com
Signature	/elizabeth russell/
Date	09/26/2014
Attachments	confid declaration Morris redacted.pdf(73533 bytes) Ex F redactedx.pdf(38961 bytes) Ex H redactedx.pdf(36315 bytes)

Redacted

Attorney Docket No.: 90656-001

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

Fifty-Six Hope Road Music Limited, Petitioner, v. Island Food & Fun, Inc., Registrant.	Cancellation No.: 92057058 Registration No.: 3225517
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Commissioner for Trademarks
ATTN: Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

CONFIDENTIAL DECLARATION OF JEFF MORRIS

I, Jeff Morris, declare and state as follows:

1. I own and have served as Secretary of Mormax, Inc. since December 2, 2002.
2. My wife, Marci Morris, is the only other owner of Mormax, Inc.
3. I own and have served as President of Island Food & Fun, Inc., since May 12, 2010.
4. My wife, Marci Morris, is the only other owner of Island Food & Fun, Inc.
5. I own and have served as Member of T.F. Food Court, L.L.C. since July 1, 2002.
6. My wife, Marci Morris, is the only other owner of T.F. Food Court, L.L.C.
7. By virtue of my positions with all three companies, and having reviewed the business records of all three companies, I have personal knowledge of the matters set forth herein.

8. For convenience, I shall refer to the three companies, collectively, as the "Morris Entities."

9. For business purposes not relevant to the instant proceeding, each of the Morris Entities plays a role in the bar and restaurant (the "Restaurant") we operate under the challenged Registration.

10. Between 2005 and 2010 the Restaurant saw an increase in sales of \$ [REDACTED]

11. Between 2006 and 2013, advertising expenditures for the Restaurant were as follows:

Advertising	2006-2010	2011-2013	Totals
Wisconsin Dells Visitors and Convention Bureau	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Ad-Lit	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Menus	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Advertising/Other	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Printing	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Office Printing Supply		\$ [REDACTED]	\$ [REDACTED]
Total			\$ [REDACTED]

12. In 2010, T.F. Food Court, L.L.C. purchased a new building in which to house the Restaurant.

13. Expenditures for the new Restaurant building were as follows:

Land	\$ [REDACTED]
Land Improvements	\$ [REDACTED]
Building	\$ [REDACTED]
Signs	\$ [REDACTED]
Equipment	\$ [REDACTED]
Total	\$ [REDACTED]

14. Between 2006 and 2013 the Morris Entities made the following community donations, building goodwill for the Restaurant under the mark:

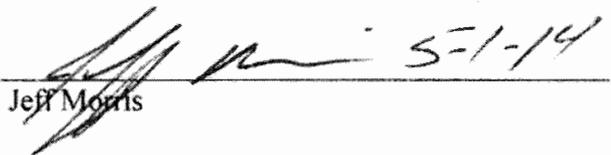
	Community Relations		
	2006-2010	2011-2013	
Business Donation	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Lake Delton Police	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Lake Delton Fire Dept	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Kops 4 Kids		\$ [REDACTED]	\$ [REDACTED]
CASA	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Sauk County Police	\$ [REDACTED]		\$ [REDACTED]
Cure 4 Kids	\$ [REDACTED]		\$ [REDACTED]
Melanoma Research		\$ [REDACTED]	\$ [REDACTED]
WI Dells High Music Dept	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Hospitality Scholarship	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Sports Sponsor	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
St. Cecelia Church		\$ [REDACTED]	\$ [REDACTED]
Donation Coupons & Goods	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Misc	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Total			\$ [REDACTED]

15. Between 2006 and 2013, we incurred the following in attorney fees related to the challenged mark and the Reef Application:

	2006-2010	2011-2013	
Attorney Expense for Trademark	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

 5-1-14
 Jeff Morris

Dated:

Ex F redacted
RussellLaw

6907 University Ave. #227 Middleton WI 53562 608-826-5007 www.erklaw.com

*Russell Law is a trade name of the Law Office of Elizabeth T Russell, LLC
Elizabeth T Russell is admitted to practice in New York, Connecticut and Wisconsin*

February 19, 2014

Jill M. Pietrini, Esq.
Whitney Walters, Esq.
SHEPPARD MULLEN RICHTER & HAMPTON LLP
1901 Avenue of the Stars, Suite 1600
Los Angeles, CA 90067-6017

Via email: wwalters@sheppardmullin.com; JPietrini@sheppardmullin.com

Re: Cancellation No. 92057058

Legal Correspondence for Settlement Purposes Only. Not Admissible Under FRE 408.

My statements herein are made for the purposes of settling the dispute between our clients. Anything that I might say or propose is neither an admission of any allegations that you or your client might have made nor a waiver of any rights or defenses that my client may have.

Dear Ms. Pietrini and Ms. Walters:

Thank you for your email of February 12, 2014, expressing a willingness to entertain resolution of this matter by settlement. My client's position on the merits remains, in all respects, as set forth in its answer to the petition. In the interest of economy, however, my client ("Island") proposes the following.

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

I am in receipt of the discovery materials you served yesterday. However, I respectfully request your consent to a motion for suspension for purposes of settlement negotiation.

Thank you for your thoughtful consideration, and I look forward to hearing from you.

Sincerely,

Elizabeth Russell

Digitally signed by Elizabeth Russell
DN: cn=Elizabeth Russell, o=Russell Law,
ou, email=beth@erklaw.com, c=US
Date: 2014.02.20 11:22:28 -06'00'

Elizabeth T Russell

Ex. H redacted

From: Whitney Walters
To: Elizabeth Russell (beth@erklaw.com)
Cc: Jill Pietrini
Subject: RE: 56 Hope Road v. Mormax
Date: Thursday, March 27, 2014 5:37:14 PM
Sensitivity: Confidential

FOR SETTLEMENT PURPOSES ONLY

Elizabeth,

We have reviewed the settlement proposal you forwarded and have the following thoughts/counterproposal:

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

If you would like to discuss this further, please feel free to give me a call.

Whitney

From: Elizabeth Russell [mailto:beth@erklaw.com]
Sent: Tuesday, March 11, 2014 10:54 AM
To: Whitney Walters
Cc: Jill Pietrini
Subject: RE: 56 Hope Road v. Mormax
Sensitivity: Confidential

March 11, 2014

Re-sending

Whitney/Jill,

Please suggest a time in the coming week when we can discuss the settlement proposal I emailed on Wednesday.

Thank you,
Elizabeth

Russell Law

Mailing address:

6907 University Ave. #227
Middleton, WI 53562 USA

Voice Telephone: 1-608-826-5007

Arts Law Conversations is available at www.rulypress.com

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