ESTTA Tracking number: **ESTTA685130**
Filing date: **07/22/2015**

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

Proceeding	92058315
Party	Defendant M22, LLC
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Date	07/22/2015
Attachments	07-22-15 Response to Motion for Protective Order.pdf(937811 bytes)

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

State of Michigan

Petitioner,

Proceeding No: 92058315

v.

M22, LLC,

Registrant.

RESPONSE TO PETITIONER'S MOTION FOR PROTECTIVE ORDER

I. INTRODUCTION

Registrant hereby responds to and opposes Petitioner's Motion for Protective Order because Registrant's notice of deposition is clear, seeks clearly relevant information, which is tied to the specific grounds for cancellation asserted by Petitioner, and is not intended to harass Petitioner. Further, Registrant's notice, which set the place for deposition in Traverse City, Michigan, was provided to Petitioner as early as February 9, 2015 and was not objected to at that time. Traverse City, Michigan is the situs of this case and Petitioner is located in (and has jurisdiction over) Traverse City, Michigan and, therefore, Registrant's notice of deposition is proper and Registrant's 30(b)(6) deposition should proceed as noticed.

II. FACTS

On February 9, 2015, Registrant served upon Petitioner its Notice of Deposition of the State of Michigan, which was noticed for March 2, 2015. See **Exhibit A**, Printout of Feb. 9, 2015 Notice. On February 24, 2015, Petitioner sent a letter to Registrant,

which objected to Registrant's notice of deposition on the grounds that Registrant's initial disclosures were not served at the same time as its Notice of Deposition, that Petitioner's attorney would be out of the office until March 9, 2015, and that a deposition was not proper because Petitioner believed that the TTAB would suspend the proceeding until after Petitioner's Motion for Judgment on the Pleadings could be reviewed. See **Exhibit B**, Printout of Feb. 23, 2015 letter from AG. Petitioner notably did not, however, object to Traverse City, Michigan as a proper venue for its 30(b)(6) deposition.

On March 2, 2015, the Trademark Trial and Appeal Board issued an Order denying Petitioner's Motion for Judgment on the Pleadings and reopened this proceeding. Subsequently, on June 23, 2015, Registrant again served upon Petitioner its Notice of Deposition of the State of Michigan, which was noticed for July 28, 2015. See **Exhibit C**, Notice of Deposition. On July 7, 2015, Petitioner sent Registrant a letter, which asserted, without specificity, various objections to Registrant's 30(b)(6) deposition and objected to the setting of Traverse City, Michigan as the venue for the 30(b)(6) deposition because Traverse City "will not work." See **Exhibit D**, Printout of July 7, 2015 letter from AG. On July 8, 2015, Registrant specifically responded to Petitioner's vague objections to the best of its ability and provided both case law and factual justifications for the requests contained in its 30(b)(6) notice. See **Exhibit E**, Printout of July 8, 2015 letter to AG. Between July 8, 2015 and July 19, 2015, Registrant did not receive any further correspondence from Petitioner.

On July 20, 2015, and without any prior attempt to meet and confer on the topics listed in Registrant's 30(b)(6) deposition notice, Petitioner filed its Motion for Protective

Order[1]. Now, Registrant responds to Petitioner's Motion and requests that the interlocutory attorney reject Petitioner's attempts to delay this proceeding further and compel Petitioner to attend its 30(b)(6) deposition in Traverse City, Michigan on July 28, 2015 as noticed.

III. ARGUMENT

Petitioner has objected to the categories of testimony sought by Registrant's 30(b)(6) notice of deposition because Petitioner's claims are themselves vague, ambiguous, and poorly formed. Registrant has requested specific information that is both relevant and directly corresponds to the grounds for cancellation asserted by Petitioner in its Second Amended Petition to Cancel. Further, Registrant's Notice of Deposition, which was first served on Petitioner almost five months ago, is reasonable and will not subject Petitioner to hardship. For these reasons, Petitioner's Motion must be denied.

a. The State of Michigan's is having difficulty responding to Registrant's 30(b)(6) deposition notice because its claims are themselves vague, ambiguous, and poorly formed.

Petitioner has objected to Registrant's 30(b)(6) notice of deposition because, it asserts, the categories of testimony on which Registrant has requested that the designated deponents testify are "vague, ambiguous, overbroad, unduly burdensome, not reasonably particular, and seek information that is irrelevant." Petitioner, however, is

[1] It is unclear why Petitioner has requested a protective order, as the Board's standard protective order is already applicable to this case as outlined in the TTAB's scheduling order and Petitioner has not identified any confidential or trade secret information that is sought by Registrant. Moreover, Petitioner's claim that Registrant's Notice of Deposition constitutes "harassment" is untenable, as Registrant's Notice of Deposition seeks information that is within the scope of Petitioner's purported grounds for cancellation. Registrant can only assume that Petitioner's request for a protective order should properly be read as a motion to quash Registrant's Notice of Deposition of the State of Michigan and has treated it as such. See TBMP § 521 as compared to TBMP § 523.

having difficultly responding to Registrant's 30(b)(6) deposition notice, and objects to its depth, because its claims are themselves vague, ambiguous, and poorly formed. The Petitioner's inability to provide information in response to Registrant's 30(b)(6) deposition notice does not make Registrant's notice vague, ambiguous, overbroad, unduly burdensome, not reasonably particular, or irrelevant, nor does it justify such an objection. For this reason, Petitioner's Motion must be denied.

i. Mark is not a lawful use in commerce.

Petitioner's Second Amended Petition to Cancel asserts that Plaintiff's use of the M22 Marks is not a lawful use in commerce. Refusal of a registration based on an unlawful use of a mark is proper "when the issue of compliance [with the pertinent statute] has previously been determined (with a finding of non-compliance) by a court or government agency having competent jurisdiction under the statute involved, or where there has been a per se violation of a statute regarding the sale of the parties' goods." *Kellogg Co. v. New Generation Foods, Inc.*, 6 USPQ2d 2045, 2047 (TTAB 1988). A party alleging unlawful use must establish that the non-compliance "was material, that is, was of such gravity and significance that the usage must be considered unlawful – so tainted that, as a matter of law, it could create no trademark rights – warranting cancellation of the registration of the mark involved." *Churchill Cellars, Inc.*, 91193930, 2012 WL 5493578 (TTAB Oct. 19, 2012).

Petitioner asserts that Registrant has failed to make a lawful use in commerce of the M22 Marks because, in adopting and using the M22 Marks in commerce, Registrant has violated the federal Highway Safety Act of 1966 regulations. Petitioner alleges (1) that the Highway Safety Act of 1966 requires Petitioner to adopt a Manual on Uniform

Traffic Control Devices, (2) that the Manual on Uniform Traffic Control Devices prohibits private parties from protecting any traffic control devices listed within the Manual via patent, trademark, or copyright law; (3) that the State of Michigan has adopted its own version of the Manual in order to comply with federal law; (4) that Registrant has protected a design contained within the Manual via federal trademark registration; and (5) that, as a result of Registrant's trademark registrations, the State of Michigan will lose highway funding if Registrant's trademark registrations are allowed to persist.

Registrant's 30(b)(6) notice requests that Petitioner's designee testify as to the "State of Michigan's adoption of and adherence to the Manual on Uniform Traffic Control Devices," and this testimony is relevant to determine whether the Manual was properly adopted and whether the State of Michigan has adhered to all of its mandates. Such information has a tendency to make a fact, namely, whether the State of Michigan has, through its conduct, recognized that the Manual is advisory and not regulatory in nature, more or less probable. Registrant's notice requests testimony on Petitioner's receipt of highway funds as a result of its 'substantial conformance' with the Manual on Uniform Traffic Control Devices." This information is relevant to whether Petitioner has ever been found to not be in substantial conformance with the Manual on Uniform Traffic Control Devices, whether Petitioner has ever been denied (or has been threatened to be denied) highway funding as a result of its failure to comply with the Manual, and whether there has even ever been an audit or review of Petitioner's substantial compliance with the Manual. These questions, as well as Registrant's request for testimony on the "State of Michigan's denial of highway funds for failure to

comply with federal law," are directly relevant to establish whether Petitioner's alleged harm is real or whether Petitioner's conduct indicates that its alleged harm is illusory.

Registrant has also requested testimony on "[a]ll correspondence received by the State of Michigan concerning its failure to comply with or adhere to the Manual on Uniform Traffic Control Devices or regulations of the Federal Highway Administration or Department of Transportation of the United States of America." This request is relevant to identify whether the federal government has ever demanded that the State of Michigan take some action to bring itself in compliance with the Manual, whether the State of Michigan has ever been denied (or has been threatened to be denied) funds as a result of its failure to comply with the Manual, and whether the State of Michigan sought an opinion from the federal government as to whether Registrant's use of the M22 Marks are lawful. And Registrant has requested testimony on the "State of Michigan's adoption and enforcement of the Michigan Manual on Uniform Traffic Control Devices against third parties." This information is relevant to establish whether the State of Michigan has always believed that the Manual provides a private prohibition on establishing intellectual property protection over signs (or components thereof) and whether the State of Michigan has sat on its rights, thus supporting an estoppel, waiver, or laches defense. See **Exhibit C**, ¶¶ (5), (9), (10), (11), and (19).

ii. False suggestion of a connection.

To establish a claim that Registrant's marks falsely suggest a connection consistent with § 2(a) of the Trademark Act, Petitioner must establish:

1. the mark that is registered is the same as, or a close approximation of, the name or identity previously used by another person or institution;
2. the mark would be recognized as such, in that it points uniquely and unmistakably to that person or institution;
3. the person or institution identified in the mark is not connected with the goods or services sold by Registrant under the mark; and
4. the fame or reputation of the named person or institution is of such a nature that a connection with such person or institution would be presumed when Registrant's marks are used on its goods or services.

See Univ. of Notre Dame du Lac v. J.C. Gourmet Foods Imps. Co., 703 F.2d 1372, 217 USPQ 505, 508-10 (Fed. Cir. 1983; Buffet v. Chi-Chi's, Inc., 226 USPQ 428, 429-30 (TTAB 1985). Petitioner has alleged that Registrant's M22 Marks falsely suggest a connection with Petitioner.

Registrant has requested testimony on Petitioner's "development, creation, and use of the M-22 sign as a trademark," Petitioner's "use of the M-22 sign as a geographical indicator for the northwest Michigan region," Petitioner's "receipt of revenue from the use of the M-22 sign on goods or services," Petitioner's use of the M-22 sign in connection with the representation and description of "the culture of Northern Michigan," the goodwill associated with the State of Michigan's use of the M-22 sign, and Petitioner's allegation "that consumers are confused into believing that M22, LLC's

goods originate from the State of Michigan." See **Exhibit C**, ¶¶ (3), (6), (7), (16), (17), and (18). All of these requests are relevant to establishing whether the State of Michigan has used the M-22 sign as its name, identity, or persona so as to support a claim for false suggestion of a connection. *See Univ. of Notre Dame* at 1376-77 (Fed Cir. 1983); *see also Lesley Hornby a/k/a Lesley Lawson a/k/a Twiggy*, 9204436, 2008 WL 1897568 (TTAB April 22, 2008) ("[T]he purpose of the false suggestion of a connection language of Section 2(a) was to protect 'the name of an individual or institution which was not a 'technical' trademark or 'trade name' upon which an objection could be made under Section 2(d),' and that this statutory section embraces the concepts of the right of privacy and the related right of publicity."). Simply put, if Petitioner has never used the M-22 sign as its name, identity, or persona, then Petitioner cannot establish a claim for a false suggestion of connection as a matter of law.

iii. Misrepresentation of source.

To establish a claim for misrepresentation of source, Petitioner must establish that Registrant has sought to pass off Petitioner's goods or services as its own. *See Osterreichischer Molkerei-und Kasereiverband Registriete GmbH v. Marks and Spencer Limited*, 203 USPQ 793, 794 (TTAB 1979) (stating that misrepresentation of source "refers to situations where it is deliberately misrepresented by or with the consent of the registrant that the goods and/or services originate from a manufacturer or other entity when in fact those goods and/or services originate from another party."); see also McCarthy, J. Thomas, 3 McCarthy on Trademarks and Unfair Competition, § 20:60 (4th

ed. 2007) ("A cancellation claim for misrepresentation under § 14(3) requires a pleading that registrant deliberately sought to pass off its goods as those of petitioner.").

Registrant has requested testimony on "the State of Michigan's development, creation, and use of the M-22 sign," "the State of Michigan's development, creation, and use of the M-22 sign as a trademark," "the State of Michigan's receipt of revenue from the use of the M-22 sign on goods or services," and Petitioner's "allegation... that consumers are confused into believing that M22, LLC's goods originate from the State of Michigan." All of these categories of testimony are relevant to establish whether Petitioner has ever sold goods or services under the M-22 sign, whether consumers have been confused into believing that Registrant's goods and services are those of Petitioner, and whether Registrant has falsely suggested a connection with Petitioner.

iv. Mark is an insignia of a state or municipality.

To establish that Registrant's M22 Marks are an insignia of a state or municipality, Petitioner must prove that Registrant's M22 Marks are emblems or devices that represent governmental authority and are of the same general class and character as flags and coats of arms. See TMEP § 1204.02(a). Petitioner must also establish that its M-22 sign is not "merely used to identify a service or facility of the Government." See TMEP § 1204.02(a).

Registrant's notice requests testimony on "the State of Michigan's use of the M-22 sign as an insignia for the State." See **Exhibit C**, § (4). It is unclear how this request could be deemed "vague, ambiguous, overbroad, unduly burdensome, not reasonably particular," or irrelevant. Petitioner has alleged that it uses the M-22 sign as an insignia, and Registrant is, therefore, entitled to discovery on that subject.

v. Likelihood of confusion.

Section 2(d) of the Lanham Act prohibits the registration that "[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion or to cause mistake, or to deceive." 15 USC § 1052(d). The principal question, prior to proceeding with the *Du Pont* factors, is whether the Petitioner has a recognizable trademark. See 15 USC § 1052(d) ("consists or comprises a *mark*..." "or a *mark or trade name*...."). Once this threshold question is answered in the affirmative so as to support a claim of likelihood of confusion, the TTAB applies the *Du Pont* factors to determine whether a likelihood of confusion is present:

1. The similarity or dissimilarity of the marks in their entireties as to appearance, sound, connotation and commercial impression.
2. The similarity or dissimilarity and nature of the goods or services as described in an application or registration or in connection with which a prior mark is in use.
3. The similarity or dissimilarity of established, likely-to-continue trade channels.
4. The conditions under which and buyers to whom sales are made, i. e. "impulse" vs. careful, sophisticated purchasing.
5. The fame of the prior mark (sales, advertising, length of use).

6. The number and nature of similar marks in use on similar goods.
7. The nature and extent of any actual confusion.
8. The length of time during and conditions under which there has been concurrent use without evidence of actual confusion.
9. The variety of goods on which a mark is or is not used (house mark, "family" mark, product mark).
10. The market interface between applicant and the owner of a prior mark.

Application of E.I. DuPont DeNemours & Co., 476 F.2d 1357, 1361 (C.C.P.A. 1973).

Registrant's notice requests testimony on Petitioner's development, creation, and use of the M-22 sign, Petitioner's development, creation, and use of the M-22 sign as a trademark, Petitioner's receipt of revenue from the use of the M-22 sign on goods or services, and the goodwill associated with the State of Michigan's use of the M-22 sign. See **Exhibit C**, ¶¶ (2), (3), (7), and (17). These requests are clearly relevant to determine how Petitioner has used the M-22 sign, whether Petitioner has ever used the M-22 sign as a trademark, whether the Petitioner has sold goods or services under the M-22 sign so as to have acquired trademark rights in and to that sign, and whether any purported goodwill associated with Petitioner's use of the M-22 sign inured to the benefit of Petitioner as alleged in Petitioner's Second Amended Petition to Cancel. Without disclosing exactly how it has acquired purported trademark rights in and to the M-22 sign, Petitioner cannot maintain a likelihood of confusion claim.

vi. Mark is geographically descriptive.

To establish that Registrant's marks are geographically descriptive, Petitioner must prove that the marks are the name of a place known generally to the public, and that the public would make a goods/place association, i.e., believe that the goods or services for which the mark is registered originate in that place. *See In re Societe Generale des Eaux Minerals de Vittel, S.A.*, 824 F.2d 957 (Fed. Cir. 1987); *see also In re California Pizza Kitchen, Inc.*, 10 USPQ 2d 1704 (TTAB 1988). Petitioner has alleged that the State of Michigan has used the M-22 sign as a geographical indicator for the northwestern Michigan region and that the State of Michigan has used the M-22 sign in connection with the representation and description of "the culture of Northern Michigan." Registrant's notice requests testimony on these two allegations, which are directly relevant to Petitioner's assertion that Registrant's marks are geographically descriptive.

b. Registrant's deposition notice is proper.

Petitioner asserts that Registrant's deposition notice is objectionable because it sets Traverse City, Michigan, Registrant's principal place of business and the origination of M-22, the trunkline highway at issue in this matter, as the place for the deposition. Rule 2.120(a) of the Trademark Rules of Practice "provides that mere notice alone is sufficient to secure the attendance of a party for the taking of his discovery deposition." *See Consol. Foods Corp.*, 189 U.S.P.Q. (BNA) ¶ 582 (P.T.O. Mar. 5, 1976); see also TBMP § 404.03(a)(1) (stating that "the deposition [of a party] may be taken on notice alone."). TBMP § 404.06(b) states that the deposition of an organization may be made consistent with Fed. R. Civ. P. 30(b)(6). While Petitioner correctly cites *M & C Corp. v. Erwin Behr* for the proposition "that corporate officers should be deposed at the

corporation's principal office and place of business," Petitioner noticeably excludes the next sentence, which states that courts have the discretion to allow depositions outside of the corporation's principal place of business. *See M & C Corp. v. Erwin Behr GmbH & Co., KG*, 165 F.R.D. 65, 67 (E.D. Mich. 1996). In fact, the *M & C Corp.* court found to the contrary of Petitioner's position:

> First, this court finds that Erwin Behr's complaints of hardship are exaggerated. Erwin Behr concedes that several of the officers it intends to designate frequently travel to the United States to conduct business. Erwin Behr's only complaint it [sic] that the depositions should be scheduled at a time when the designees would otherwise be here. Problematic with this position is that Erwin Behr has not indicated when these officers will be within the United States, insisting that these officer's schedules have not been finalized. This court does not find this a sufficient ground to justify a prophylactic protective order requiring M & C to travel to Germany to conduct depositions or review documents. Requiring this discovery to take place in Michigan will not impose an undue hardship upon Erwin Behr.

Id.

Similarly in this case, Petitioner cannot reasonably claim that it will face undue hardship by attending a deposition in Traverse City, Michigan. First, Petitioner, which can be found in Traverse City, Michigan, initiated this Petition to Cancel against Registrant. *See Am. Gen. Life Ins. Co. v. Harshman*, 299 F.R.D. 157, 158 (E.D. Ky. 2014) ("More importantly, however, Plaintiff is the case-initiating party. Whether Plaintiff had a forum choice is unclear, but initiating a declaratory judgment action certainly was

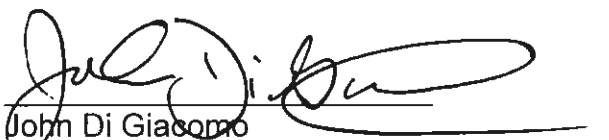
a choice. Plaintiff should not be surprised and faces no undue burden in coming here to participate in Rule 30(b)(6) depositions."). Second, Petitioner was first made aware of Registrant's intent to depose Petitioner's 30(b)(6) designee in Traverse City, Michigan on February 9, 2015. See **Exhibit B**, February 23, 2015 letter from AG. Despite this, Petitioner waited until one week before its 30(b)(6) deposition, and **five months** after it was first served with Registrant's notice, to file this Motion. If Petitioner was concerned about attending a deposition in Traverse City, Michigan, it should not have filed its Petition to Cancel against a company located in Traverse City, Michigan almost two years ago.

Prior to initiating its Petition to Cancel, and on Tuesday, June 26, 2012, Petitioner willingly drove to Traverse City, Michigan to meet with Registrant to discuss Registrant's registration and use of the M22 Marks. See **Exhibit F**, Declaration of Matt Myers. Though Petitioner asserts that Lansing, Michigan, the State Capitol is "approximately a 4-hour drive from Traverse City," in reality, the drive is typically less than three hours. See **Exhibit G**, Printout of Google Map. Most importantly, Petitioner is the State of Michigan, with yearly tax revenue of $25,100,000,000 ($25.1 billion) in 2013. It cannot be said that the thirteenth largest state in the United States will be unduly burdened by attending a deposition in a city over which it has jurisdiction, in which it can be found, and which serves as the situs of the trunkline that is the basis for this dispute. *See Turner v. Prudential Ins. Co. of America*, 119 F.R.D. 381, 384 (M.D. N.C. 1988) ("Plaintiff is a small employer and defendant is a large insurance corporation. Defendant sells insurance policies in various states and, therefore, can well be expected to have claims and actions brought by its policyholders in those states.... Under these

circumstances, plaintiff's request to depose defendant concerning the policy in the state were the policy issued is both reasonable and expected, and defendant's claim of hardship in having to submit itself, through its officers, for deposition in the forum district is entitled to less sympathetic consideration. This additional factor decidedly tips the balance in plaintiff's favor, therefore, requiring defendant's officers to appear in this District for depositions."). For these reasons, Petitioner's Motion for Protective order must be denied and Petitioner should be compelled to attend Registrant's deposition in Traverse City, Michigan on the date and time noticed.

IV. CONCLUSION

For the foregoing reasons, Registrant requests that Petitioner's Motion for Protective order be denied.



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CERTIFICATE OF SERVICE

I, John Di Giacomo, an attorney, hereby certify that I served a true and correct copy of this Response to Motion for Protective Order on counsel of record via electronic mail on July 22, 2015.

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EXHIBIT A

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

State of Michigan

Petitioner,

Proceeding No: 92058315

v.

M22, LLC,

Registrant.

NOTICE OF DISCOVERY DEPOSITION OF THE STATE OF MICHIGAN

PLEASE TAKE NOTICE that on March 2, 2015, commencing at 10:00am, and from day to day afterwards until completed, at the Park Place Hotel, 300 East State Street, Traverse City, Michigan, 49684, or another mutually agreed-upon location, Registrant will take the discovery deposition of Petitioner State of Michigan. This discovery deposition will be before a notary public authorized to administer oaths, will be taken in accordance with the Federal Rules of Civil Procedure, and may be used for all purposes.

Pursuant to TBMP § 404, Trademark Rule of Practice § 2.120, and Fed. R. Civ. P. 30(b)(6), you must designate one or more officers, directors, or managing agents to testify on your behalf. The matters on which the witness(es) will be examined are as follows:

(1) All allegations in the State of Michigan's Amended Petition to Cancel;

(2) The State of Michigan's development, creation, and use of the M-22 sign;

(3) The State of Michigan's development, creation, and use of the M-22 sign as a trademark;

(4) The State of Michigan's use of the M-22 sign as an insignia for the State;

(5) The State of Michigan's adoption of and adherence to the Manual on Uniform Traffic Control Devices;

(6) The State of Michigan's use of the M-22 sign as a geographical indicator for the northwestern Michigan region;

(7) The State of Michigan's receipt of revenue from the use of the M-22 sign on goods or services;

(8) The State of Michigan's damages, as alleged in its Amended Petition to Cancel;

(9) The State of Michigan's receipt of highway funds as a result of its "substantial conformance" with the Manual on Uniform Traffic Control Devices;

(10) The State of Michigan's denial of highway funds for failure to comply with federal law;

(11) All correspondence received by the State of Michigan concerning its failure to comply with or adhere to the Manual on Uniform Traffic Control Devices or regulations of the Federal Highway Administration or Department of Transportation of the United States of America;

(12) The taxes paid by M22, LLC to the State of Michigan;

(13) The State of Michigan's recognition of M22, LLC as one Michigan's "50 Companies to Watch;"

(14) The State of Michigan's recognition of M22, LLC, and its use of M22, LLC as a representative of reasons to do business in Michigan, in its Pure Michigan advertising campaign;

(15) The State of Michigan's use of M22, LLC in the Pure Michigan "Official State Travel Guide;"

(16) The State of Michigan's use of the M-22 sign in connection with the representation and description of "the culture of Northern Michigan" as alleged by the State of Michigan in its Amended Petition to Cancel;

(17) The goodwill associated with the State of Michigan's use of the M-22 sign as alleged by the State of Michigan in its Amended Petition to Cancel;

(18) The State of Michigan's allegation, as alleged in its Amended Petition to Cancel, that consumers are confused into believing that M22, LLC's goods originate from the State of Michigan;

(19) The State of Michigan's adoption and enforcement of the Michigan Manual on Uniform Traffic Control Devices against third parties;

Respectfully Submitted,

Date: February 9, 2015

/s/ John Di Giacomo

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CERTIFICATE OF SERVICE

I, John Di Giacomo, an attorney, hereby certify that I served a true and correct copy of this Notice of Discovery Deposition of the State of Michigan on counsel of record on February 9, 2015 via electronic mail.

Date: February 9, 2015

/s/ John Di Giacomo

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EXHIBIT B

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

P.O. BOX 30754
LANSING, MICHIGAN 48909

BILL SCHUETTE
ATTORNEY GENERAL

February 24, 2015

Mr. John Di Giacomo
Revision Legal, PLLC
148 E. Front St., 3rd Floor
Traverse City, MI 49684

Re: State of Michigan v M22, LLC, TTAB no. 92058315

Dear Mr. Di Giacomo:

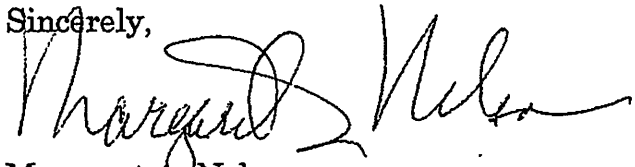
Counsel for Petitioner has received the **Notice of Discovery Deposition** pursuant to TBMP § 404, Trademark Rule of Practice 2.120 and Fed. R. Civ. P. 30(b)(6) served February 9, 2015 in the referenced matter. The discovery deposition has been noticed for March 2, 2015. Please be advised, I am the Assistant Attorney General who will be handling this deposition when it does go forward.

However, the March 2, 2015, date was set arbitrarily by you contrary to TBMP § 408. And I am not available that date. I will be out of the office beginning February 27 and am not returning until March 9, 2015. Additionally, I note that the scheduling of this discovery deposition is premature. Registrant may not commence discovery until initial disclosures have been made absent a stipulation of the parties approved by the Board, a motion granted by the Board, or by order of the Board. Trademark Rule of Practice 2.120 (a)(3). None of these events have occurred. Further, you agreed during our recent telephone discovery conference, that discovery is properly deferred until after a determination on Petitioner's motion for judgment on the pleadings. For these reasons, Petitioner will not appear for the scheduled deposition.

Also, because of the lengthy list of matters for examination identified in the Notice—19 in all, not all of which appear related to the cancelation of the M22 mark—several witnesses will be required. It is taking some time to identify all the witnesses necessary to respond to the list of deposition matters and to determine and coordinate their availability. I suggest it would be better if we cooperate in the scheduling of this deposition as suggested in TBMP § 408. When it is appropriate to go forward, we will identify all the witnesses and determine a mutually agreeable date(s) amongst them which will then be coordinated with counsel to schedule the actual deposition date.

Thank you for your cooperation in this matter.

Sincerely,



Margaret A. Nelson
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MAN/mrr

2013-0053958-A

EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Proceeding No: 92058315

NOTICE OF DISCOVERY DEPOSITION OF THE STATE OF MICHIGAN

PLEASE TAKE NOTICE that on July 28, 2015, commencing at 10:00am, and from day to day afterwards until completed, at the Park Place Hotel, 300 East State Street, Traverse City, Michigan, 49684, or another mutually agreed-upon location, Registrant will take the discovery deposition of Petitioner State of Michigan. This discovery deposition will be before a notary public authorized to administer oaths, will be taken in accordance with the Federal Rules of Civil Procedure, and may be used for all purposes.

Pursuant to TBMP § 404, Trademark Rule of Practice § 2.120, and Fed. R. Civ. P. 30(b)(6), you must designate one or more officers, directors, or managing agents to testify on your behalf. The matters on which the witness(es) will be examined are as follows:

(1) All allegations in the State of Michigan's Amended Petition to Cancel;

(2) The State of Michigan's development, creation, and use of the M-22 sign;

(3) The State of Michigan's development, creation, and use of the M-22 sign as a trademark;

(4) The State of Michigan's use of the M-22 sign as an insignia for the State;

(5) The State of Michigan's adoption of and adherence to the Manual on Uniform Traffic Control Devices;

(6) The State of Michigan's use of the M-22 sign as a geographical indicator for the northwestern Michigan region;

(7) The State of Michigan's receipt of revenue from the use of the M-22 sign on goods or services;

(8) The State of Michigan's damages, as alleged in its Amended Petition to Cancel;

(9) The State of Michigan's receipt of highway funds as a result of its "substantial conformance" with the Manual on Uniform Traffic Control Devices;

(10) The State of Michigan's denial of highway funds for failure to comply with federal law;

(11) All correspondence received by the State of Michigan concerning its failure to comply with or adhere to the Manual on Uniform Traffic Control Devices or regulations of the Federal Highway Administration or Department of Transportation of the United States of America;

(12) The taxes paid by M22, LLC to the State of Michigan;

(13) The State of Michigan's recognition of M22, LLC as one Michigan's "50 Companies to Watch;"

(14) The State of Michigan's recognition of M22, LLC, and its use of M22, LLC as a representative of reasons to do business in Michigan, in its Pure Michigan advertising campaign;

(15) The State of Michigan's use of M22, LLC in the Pure Michigan "Official State Travel Guide;"

(16) The State of Michigan's use of the M-22 sign in connection with the representation and description of "the culture of Northern Michigan" as alleged by the State of Michigan in its Amended Petition to Cancel;

(17) The goodwill associated with the State of Michigan's use of the M-22 sign as alleged by the State of Michigan in its Amended Petition to Cancel;

(18) The State of Michigan's allegation, as alleged in its Amended Petition to Cancel, that consumers are confused into believing that M22, LLC's goods originate from the State of Michigan;

(19) The State of Michigan's adoption and enforcement of the Michigan Manual on Uniform Traffic Control Devices against third parties;

Respectfully Submitted,

Date: June 23, 2015

John Di Giacomo
Revision Legal, PLLC
Attorney for Registrant
148 E. Front St.
3rd Floor
Traverse City, Michigan 49684
231.714.0100
231.714.0200 (f)
john@revisionlegal.com

CERTIFICATE OF SERVICE

I, John Di Giacomo, an attorney, hereby certify that I served a true and correct copy of this Notice of Discovery Deposition of the State of Michigan on counsel of record on February 9, 2015 via electronic mail.

Date: June 23, 2015

John Di Giacomo
Revision Legal, PLLC
Attorney for Registrant
148 E. Front St.
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EXHIBIT D

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

425 W. OTTAWA
LANSING, MICHIGAN 48913

BILL SCHUETTE
ATTORNEY GENERAL

July 7, 2015

Mr. John Di Giacomo
Revision/Legal
148 E. Front St., 3rd Floor
Traverse City, MI 49684

Re: M22 Trademark Cancellation No. 92058315

Dear Mr. Di Giacomo:

I have reviewed your client's Initial Disclosures, 30(b)(6) deposition notice and discovery requests. The State of Michigan objects to the Notice of Deposition generally because, with 19 topics, it is overly broad on its face. The State also objects to Traverse City as the location for the depositions. We will make the State's designee(s) available for deposition at the Office of the Attorney General in Lansing, Michigan.

With regard to the topics listed in the Notice, the State of Michigan objects as follows:

a. Topic No. 2 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant;

b. Topic No. 3 on grounds that it is overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant;

c. Topic No. 4 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, and unlimited as to time period and scope;

d. Topic No. 5 on grounds that it is overbroad, unduly burdensome, and unlimited as to time period and scope, and relates to information that is irrelevant;

e. Topic No. 6 on grounds that it is overbroad, unduly burdensome, and unlimited as to time period, and relates to information that is irrelevant;

f. Topic No. 7 on grounds that it is overbroad, unduly burdensome, and unlimited as to time period, and relates to information that is irrelevant;

g. Topic No. 9 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant;

h. Topic No. 10 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant;

i. Topic No. 11 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant;

j. Topic No. 12 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant;

k. Topic No. 13 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant;

l. Topic No. 14 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant;

m. Topic No. 15 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant; and

n. Topic No. 19 on grounds that it is vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant.

Upon service of a non-objectionable notice, we can discuss a deposition date once the State has adequate time to review the notice and determine the designee(s) for each topic. Accordingly, the July 28th date of deposition as set forth in the current Notice will not work.

Regarding Respondent's discovery requests, due to the number and breadth of requests and vacation schedules, additional time is needed to obtain information and prepare responses. Please confirm that you will agree to a 30-day extension of the deadline to respond to all discovery requests. Thank you in advance for the courtesy.

Absent your concurrence to the relief requested above by close of business on Thursday, July 9th, the State will file motions as appropriate.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Toni L. Harris

Toni L. Harris
Assistant Attorney General
Transportation Division
HarrisT19@michigan.gov
(517) 373-1470

TLH/sjl
c: James Scott

EXHIBIT E

Toni L. Harris
Assistant Attorney General
Transportation Division
425 W. Ottawa
Lansing, Michigan 48913
HarrisT19@michigan.gov

Date: July 8, 2015

Subject: Letter dated July 7, 2015 concerning TTAB Cancellation Proceeding No. 92058315

Dear Ms. Harris:

We are in receipt of your letter dated July 7, 2015 wherein you object to M22, LLC's Notice of Deposition issued under Fed. R. Civ. P. 30(b)(6). Though you have provided no citations to the law justifying your objections, this letter is intended to respond to your objections with the applicable law.

First, you have objected to M22, LLC's Notice of Deposition on the basis that July 28, 2015 "will not work." You have provided no legal justification for your objection other than the boilerplate statement that the categories of information contained within M22, LLC's 30(b)(6) deposition notice are "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relate[s] to information that is irrelevant." Rule 2.120(a) of the Trademark Rules of Practice "provides that mere notice alone is sufficient to secure the attendance of a party for the taking of his discovery deposition." *See Consol. Foods Corp.*, 189 U.S.P.Q. (BNA) ¶ 582 (P.T.O. Mar. 5, 1976). Rule 2.123(c) states that "[d]epositions may be noticed for any reasonable time and place in the United States."

Since M22, LLC's Notice of Deposition was served upon the State of Michigan on June 23, 2015, over thirty days prior to the date and time of the deposition, M22, LLC's Notice of Deposition is both reasonable and was properly noticed.

Second, you have asserted various objections to M22, LLC's 30(b)(6) Notice of Deposition on the basis that the categories of information requested are either vague, ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relate to information that is irrelevant. Though you have provided no details justifying these objections, which are, at best, boilerplate, M22, LLC responds to your objections in turn:

> **Topic 2:** M22, LLC has requested that the State of Michigan provide testimony on its "development, creation, and use of the M-22 sign." You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant."
>
> The State of Michigan's Second Amended Petition to Cancel specifically states that the State of Michigan created the sign (¶ 2), that the State of Michigan used the sign "to represent and describe the culture of Northern Michigan (¶ 5)," that the State of Michigan's use of the sign has caused it to become a "symbol of that region of Petitioner (¶ 7)," that, though the federal manual suggests a default sign for route markers, "Michigan chose to maintain its historic design… (¶ 20)," that the "M-22 Sign points uniquely and unmistakably to the State of Michigan (¶ 40)," that "Registrant has copied all aspects of Petitioner's M-22 Sign… (¶ 54)," that the "M-22 Sign is an insignia of the State of Michigan (¶ 59)," that the State of Michigan has "used the M-22 Sign continuously in interstate commerce for nearly a century… (¶ 70)," and that "[t]hrough Petitioner's use of the M-22 Sign, Petitioner has built up extensive and valuable

goodwill in the M-22 Sign ¶ (73)," among others. Your objection, that M22, LLC's request is vague, ambiguous, overbroad, unduly burdensome, unlimited in time period and scope, not described with particularity, and relates to information that is irrelevant, is entirely unsupportable.

Topic 3: M22, LLC has requested that the State of Michigan provide testimony on its "development, creation, and use of the M-22 sign as a trademark." You have objected on the basis that this request is "overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant."

The State of Michigan's Second Amended Petition to Cancel specifically states that the State of Michigan created the sign (¶ 2), that the State of Michigan used the sign "to represent and describe the culture of Northern Michigan (¶ 5)," that the State of Michigan's use of the sign has caused it to become a "symbol of that region of Petitioner (¶ 7)," that, though the federal manual suggests a default sign for route markers, "Michigan chose to maintain its historic design… (¶ 20)," that the "M-22 Sign points uniquely and unmistakably to the State of Michigan (¶ 40)," that "Registrant has copied all aspects of Petitioner's M-22 Sign… (¶ 54)," that the "M-22 Sign is an insignia of the State of Michigan (¶ 59)," that the State of Michigan has "used the M-22 Sign continuously in interstate commerce for nearly a century… (¶ 70)," and that "[t]hrough Petitioner's use of the M-22 Sign, Petitioner has built up extensive and valuable goodwill in the M-22 Sign ¶ (73)," among others. Your objection, that M22, LLC's request is overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant, is unsupportable as well.

Topic 4: M22, LLC has requested that the State of Michigan provide testimony on its "use of the M-22 sign as an insignia for the State." You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, and unlimited as to time period and scope."

The State of Michigan's Second Amended Petition to Cancel specifically states that the "M-22 Sign is an insignia of the State of Michigan (¶ 59)." Since the State of Michigan pleads that it has used the M-22 sign as an insignia of the State of Michigan, the State of Michigan's objection to this request is absurd.

Topic 5: M22, LLC has requested that the State of Michigan provide testimony on the "State of Michigan's adoption of and adherence to the Manual on Uniform Traffic Control Devices." You have objected on the basis that this request is "overbroad, unduly burdensome, and unlimited as to time period and scope, and relates to information that is irrelevant."

The State of Michigan's Second Amended Petition to Cancel specifically states that "[t]o remain eligible for federal highway and highway safety program funds, a state must adopt the federal MUTCD as a state regulation, adopt a state MUTCD that is approved by the Secretary of Transportation as being in 'substantial conformance' with the federal MUTCD, or adopt the federal MUTCD in conjunction with a state supplement (¶ 18)," that the Michigan Vehicle Code requires MDOT to "adopt and maintain a uniform system of traffic control devices (¶ 19)," that the State of Michigan, in compliance with the Michigan Vehicle Code, "has adopted versions of the Michigan MUTCD that are consistent with the federal manual... (¶ 20)," and that the "MUTCD under the Highway Safety Act of 1966 reserves the M-22 Sign for the specific

purpose of functioning as a traffic control device (¶ 23)." Consequently, your objection is meritless.

Topic 6: M22, LLC has requested that the State of Michigan provide testimony on the State's "use of the M-22 sign as a geographical indicator for the northwest Michigan region." You have objected on the basis that this request is "overbroad, unduly burdensome, and unlimited as to time period, and relates to information that is irrelevant."

The State of Michigan's Second Amended Petition to Cancel specifically states that the State of Michigan's use of the sign has caused it to become a "symbol of that region of Petitioner (¶ 7)," that, though the federal manual suggests a default sign for route markers, "Michigan chose to maintain its historic design... (¶ 20)," that the "M-22 Sign points uniquely and unmistakably to the State of Michigan (¶ 40)," and that "Registrant has copied all aspects of Petitioner's M-22 Sign... (¶ 54)." Thus, your objection is groundless.

Topic 7: M22, LLC has requested that the State of Michigan provide testimony on the State's "receipt of revenue from the use of the M-22 sign on goods or services." You have objected on the basis that this request is "overbroad, unduly burdensome, and unlimited as to time period, and relates to information that is irrelevant."

The State of Michigan's Second Amended Petition to Cancel specifically states that the State of Michigan has used the M-22 sign as a mark in association with "providing traffic management services, providing road and traffic information, and facilitating the safe and efficient travel of travelers within its borders (¶ 70)." Since the State of Michigan has alleged that it has used the M-22 sign as a mark and that consumers have "come to recognize the sign as signifying Petitioner, its services, and

specific geographic areas (¶ 72)...," this information is clearly relevant and discoverable.

Topic 9: M22, LLC has requested that the State of Michigan provide testimony on the State's "receipt of highway funds as a result of its 'substantial conformance' with the Manual on Uniform Traffic Control Devices." You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant."

The State of Michigan's Second Amended Petition to Cancel specifically states that "[t]o remain eligible for federal highway and highway safety program funds, a state must adopt the federal MUTCD as a state regulation, adopt a state MUTCD that is approved by the Secretary of Transportation as being in 'substantial conformance' with the federal MUTCD, or adopt the federal MUTCD in conjunction with a state supplement (¶ 18)." Consequently, the your objection is groundless.

Topic 10: M22, LLC has requested that the State of Michigan provide testimony on the State's "denial of highway funds for failure to comply with federal law." You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant."

Again, the State of Michigan's Second Amended Petition to Cancel states that "[t]o remain eligible for federal highway and highway safety program funds, a state must adopt the federal MUTCD as a state regulation, adopt a state MUTCD that is approved by the Secretary of Transportation as being in 'substantial conformance' with the federal MUTCD, or adopt the

federal MUTCD in conjunction with a state supplement (¶ 18)." Thus, this information is clearly relevant to determine whether the State of Michigan has consistently complied with federal law in the manner asserted in this case, whether the State of Michigan can decline to accept federal funding that is expressly made conditional upon compliance with federal law, and the State of Michigan's purported damages.

Topic 11: M22, LLC has requested that the State of Michigan provide testimony on all correspondence received by the State of Michigan concerning its failure to comply with or adhere to the Manual on Uniform Traffic Control Devices or regulations of the Federal Highway Administration or Department of Transportation of the United States of America. You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, not described with particularity, and relates to information that is irrelevant."

The State of Michigan contends that M22's cannot maintain registration of the M22 marks because said registration is prohibited by the Manual on Uniform Traffic Control Devices. Thus, correspondence concerning the State of Michigan's failure to comply with the MUTCD, or other, similar purported federal mandates, are directly relevant to whether the State of Michigan's assertions that it will be harmed by M22's registrations are true or are, rather, manufactured for the purposes of continuing this TTAB action.

Topic 12: M22, LLC has requested that the State of Michigan provide testimony on the "taxes paid by M22, LLC to the State of Michigan." You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant."

The State of Michigan contends that it has been harmed by M22's use of the M22 marks. Thus, the taxes paid by M22 from its business activities are directly relevant to the question of whether the State of Michigan has been harmed, and to what extent. Therefore, your objection is without merit.

Topic 13: M22, LLC has requested that the State of Michigan provide testimony on its recognition of M22, LLC as one of Michigan's 50 Companies to Watch. You have objected on the basis that this request is "vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant."

The State of Michigan contents that it is harmed by M22, LLC's use of the M22 marks, but it has, at the same time, recognized M22, LLC as one of Michigan's 50 Companies to Watch. Thus, your objection is without merit because this information is directly relevant to whether the State of Michigan's assertions that it will be harmed by M22's registrations are true or are, rather, manufactured for the purposes of continuing this TTAB action.

Topic 14: M22, LLC has requested that the State of Michigan provide testimony on its use of M22 in its Pure Michigan campaign. You have objected on the basis that it is "vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant."

The State of Michigan contends that it has been harmed by M22's use of the M22 marks, but it has, at the same time, recognized M22 in its Pure Michigan campaign. Thus, your objection is without merit because this information is directly relevant to whether the State of Michigan's

assertions that it will be harmed by M22's registrations are true or are, rather, manufactured for the purposes of continuing this TTAB action.

Topic 15: M22, LLC has requested that the State of Michigan provide testimony on the State of Michigan's use of M22, LLC in the Pure Michigan "Official State Travel Guide." You have objected on the basis that it is "vague and ambiguous, overbroad, unduly burdensome, and relates to information that is irrelevant."

The State of Michigan contends that it has been harmed by M22's use of the M22 marks, but it has, at the same time, recognized M22 in its Pure Michigan campaign. Thus, your objection is without merit because this information is directly relevant to whether the State of Michigan's assertions that it will be harmed by M22's registrations are true or are, rather, manufactured for the purposes of continuing this TTAB action.

Topic 19: M22, LLC has requested that the State of Michigan provide testimony on its "adoption and enforcement of the Michigan Manual on Uniform Traffic Control Devices against third parties." You have objected on the basis that it is "vague and ambiguous, overbroad, unduly burdensome, unlimited as to time period and scope, and relates to information that is irrelevant."

The State of Michigan contends that it must enforce the Michigan Manual on Uniform Traffic Control Devices against M22, LLC or lose federal highway funding. Consequently, this information is clearly relevant to determining whether the State of Michigan has consistently enforced the MUTCD against third parties, or whether it has only enforced the MUTCD against M22.

Third, you objected on the basis that M22's Notice of Deposition sets Traverse City, Michigan as the place for the deposition. M22's Notice of Deposition was noticed for a reasonable place in the United States and within a judicial district in which the State of Michigan can be found. The State of Michigan clearly resides within Traverse City, Michigan, and has no reasonable basis for objecting to a deposition within Traverse City, Michigan. Therefore, your objection is without merit.

Finally, M22 is not agreeable to your request to extend the time to respond to its discovery requests. As you know, this matter has been in front of the TTAB since December 2013, and the interlocutory attorney has instructed the parties to proceed with discovery. In light of this, and because M22's Notice of Deposition is entirely reasonable, M22 will be proceeding with the deposition of the State of Michigan in Traverse City, Michigan on July 28 as scheduled. *See In re Christina Sukljian*, Opposition No. 91205046, 2015 WL 496140, at 3 (Jan. 20, 2015) (holding that 9 days was sufficient time for notice of a deposition); *see also Sunrider Corp. v. Raats*, 83 USPQ 2d 1648, 1653 (TTAB 2007) (finding six days reasonable notice for deposition). Should the State of Michigan fail to attend, M22 will proceed with filing a motion to compel and request that the interlocutory attorney sanction the State of Michigan for its failure to attend by dismissing this cancellation proceeding with prejudice. *See Christina Sukljian* at 4.

Do not hesitate to contact me should you have any questions.

Sincerely,

John Di Giacomo

EXHIBIT F

Declaration of Matt Myers

I, Matt Myers, declare:

1. I am Matt Myers, a resident of the State of Michigan, and I have personal knowledge of the facts contained herein and, if called as a witness, could and would competently testify thereto.

2. On Tuesday, June 26, 2012, the Petitioner, through its agents Alan Cropsey, Eric Restuccia, and John Wright, drove to Traverse City, Michigan to meet with M22, LLC at the offices of Traverse Legal, PLC.

3. In our meeting of Tuesday, June 26, 2012, we discussed the matters at issue in this cancellation proceeding.

4. Specifically, Petitioner traveled to Traverse City, Michigan to discuss settlement of this matter.

5. Traverse City, Michigan is located within Grand Traverse County, Michigan and is under the jurisdiction of the Attorney General of the State of Michigan.

6. The Attorney General of the State of Michigan, through his agents, regularly travels to Traverse City, Michigan to argue cases in the 86th District Court and 13th Circuit Court located in Grand Traverse County, Michigan.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: Oct 22, 2015

Matt Myers