

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

Ryan

MAILED: July 6, 2005

Opposition No. 91154398

Drowning Pool LLC

v.

Drowning Pool

**Karyn K. Ryan, Interlocutory Attorney
Trademark Trial and Appeal Board:**

The parties' stipulated motion (filed June 2, 2005) to extend opposer's rebuttal testimony period is **granted**.

Trademark Rule 2.127(a).

On June 3, 2005, the parties jointly moved for the Board to remove certain "confidential" documents from the public record in this proceeding. As we review the TTABIS electronic record for this case, it appears that the specified "confidential" documents were filed among the exhibits to applicant's testimony deposition of Brett Smith and scanned into the TTABIS record under prosecution entry numbers 33, 34, and 35. These "confidential" papers were voluntarily disclosed into the public record as a consequence of applicant's failure to properly file them under seal in accordance with standard Board procedure and

the Board's September 16, 2003 order (which approved the parties' August 19, 2003 protective agreement).

Nonetheless, inasmuch as the parties agree to the removal of these papers from the public record, the June 3, 2005 joint motion is granted to the extent that the Board has electronically tagged TTABIS prosecution entry numbers 33, 34, and 35 as "confidential." In so doing, electronic access to the papers scanned there under is now restricted only to Board personnel. Furthermore, as regards to the Board's hard copies of these "confidential" documents, the Board will remove them from the Board's public records and store them with the Board's confidential paper records. See Trademark Rules 2.27(d) and (e). Cf. Trademark Rule 2.125(e). See also TBMP §§412.04 and 412.05 (2d. ed. rev. 2004).

Inasmuch as the Trademark Rules mandate that applications and proceedings relating thereto be available for public inspection, applicant must still comply with the Board's procedure for filing confidential documents, as described more fully in TBMP §412.04 (2d. ed. rev. 2004). Applicant accordingly is ordered to file, within **thirty days** of the mailing date hereof, a properly redacted public copy of the testimony deposition of Brett Smith with redacted exhibits.

Discovery and trial dates are closed, with exception that opposer's rebuttal testimony period is reset in accordance with the parties' June 2, 2005 stipulated motion.

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Notice Regarding TTAB Electronic Resources and New Rules

- TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.
- Parties should also be aware of changes in the rules affecting trademark matters, including rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003) Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes are available at www.uspto.gov.
- The second edition of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at www.uspto.gov/web/offices/dcom/ttab/tbmp/.