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

Proceeding	91192645
Party	Plaintiff Trummer Bar, LLC, Heather Tierney, Christopher Tierney and Eric Lopez
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EXHIBIT 3

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

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TRUMMER BAR, LLC, HEATHER TIERNEY

CHRISTOPHER TIERNEY and ERIC LOPEZ,

Opposers,

Application No. 77/584,448

Opposition No. 91192645

v.

ALBERT TRUMMER,

Applicant.

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DEPOSITION OF CHRISTOPHER TIERNEY

White Plains, New York

Thursday, August 18, 2011

Reported by:
ERICA L. RUGGIERI, RPR
JOB NO: 22363

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CHRISTOPHER TIERNEY

Q. Can you specifically identify the design services that you were to provide for Trummer Bar, LLC?

A. You could say everything. I was the design and creative and branding component of the project, so...

Q. Had you ever been involved in branding for a restaurant or bar prior to your involvement with Trummer Bar, LLC?

A. Yes, I have.

Q. Can you describe that experience?

A. I did design and branding for a burger place.

Q. Which burger place?

A. Wall Street Burger Shoppe.

Q. Where is that located?

A. In New York City.

Q. What services did you provide for Wall Street Burger Shoppe?

A. Similar services. Design, interior design.

Q. Design services that you performed for Trummer Bar, LLC, were they

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CHRISTOPHER TIERNEY

to the interior design of the APOTHÉKE
bar?

A. Yes, that was one of the scope
of design.

Q. Explain to me exactly what you
did for Trummer Bar, LLC with respect to
the interior design?

A. Well, I designed the interior.
Came up with concepts, created ideas,
created all the tangible identity that you
see in the bar from lighting to decorative
elements to colors.

Q. Did you purchase the furniture?

A. I'm sure there was furniture I
did purchase.

Q. But you didn't purchase all of
the furniture for APOTHÉKE?

A. Not all the furniture, no.

Q. Did you purchase the lighting
for APOTHÉKE?

A. I designed and built some of the
lighting for APOTHÉKE.

Q. Did you present your design
ideas to Heather and Albert for

1 CHRISTOPHER TIERNEY

2 consideration?

3 A. No.

4 Q. Were you not working for them?

5 A. No.

6 Q. Explain that. I don't
7 understand.

8 A. I was working with them.

9 Q. Whose decision was it to choose
10 a particular element of the interior
11 design of APOTHÉKE?

12 A. My decision.

13 Q. Heather and Albert had no input
14 at all?

15 A. No, it was a -- everyone of
16 course has input when you do a project
17 like this. But it was my decision as to,
18 you know, ultimately the decision of how
19 the design look and feel and the identity
20 of the establishment would be.

21 Q. Did you create any design
22 documents in connection with your services
23 that you performed for Trummer Bar, LLC?

24 A. Yeah.

25 Q. What did those documents consist

1 CHRISTOPHER TIERNEY

2 of?

3 A. Oh, there's quite a few. A
4 variety of different documents. E-mail
5 invites, event packages, you know, web
6 page stuff. Standard graphic and design.

7 Q. You create any renderings?

8 A. Renderings. It depends what you
9 define as a rendering. I, of course, made
10 sketches and, you know, sketches and mood
11 boards and things in the kind of the
12 natural process of an interior design
13 project.

14 Q. Do you have copies of any of
15 these documents that you created to the
16 design of APOTHÉKE?

17 A. Yeah, I'm sure I have a few.

18 MR. MARCUS: You want to take a
19 short break.

20 MR. PAMPALONE: Sure.

21 (Whereupon, there is a recess in
22 the proceedings.)

23 MR. MARCUS: Can you read the
24 last question and answer.

25 (Record read.)

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CHRISTOPHER TIERNEY

Q. What involvement did you have with the creation of the concepts for APOTHÉKE?

MR. PAMPALONE: I object, vague.

You can answer.

A. Again, my role in what I provided was the look and feel and identity of APOTHÉKE.

Q. What is the identity of APOTHÉKE?

A. The identity is what you see, smell and feel when you go inside the establishment as well as the brand name and logos, other forms of media.

Q. Did you come up with the name APOTHÉKE?

A. No. I came up with it was a collaborative effort between, I believe, Heather and Albert.

Q. Did you come up with the concept of an apothecary style bar?

A. Yes.

Q. When did you come up with that concept?

1 CHRISTOPHER TIERNEY

2 A. When I started working with
3 Heather and Albert on the project.

4 Q. How did you come up with that
5 concept?

6 A. Collaborative conversations with
7 Heather and Albert.

8 Q. So you didn't present the
9 concept of an apothecary style bar to
10 Heather and Albert for conversation?

11 A. No.

12 Q. So when you say that you came up
13 with the concept of an apothecary style
14 bar, you mean that it was part of a joint
15 effort between you, Albert and Heather?

16 A. Yes.

17 Q. Can you explain the nature of
18 the conversations that led to the creation
19 of the concept?

20 A. Many conversations between the
21 three of us deciding, you know, how we
22 wanted to deliver and package the bar.

23 Q. I'm going to show you what's
24 been previously marked as Applicant's
25 Exhibit 2.

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CHRISTOPHER TIERNEY

Scott. And I believe Albert had his
counsel was Tom Piticoff (sp).

Q. Did you notify Trummer Bar, LLC
corporate counsel that you had learned
that a trademark application had been
filed by Albert Trummer in the mark
APOTHÉKE?

A. I can't recall me doing so.
Directly I can't recall that I did.

Q. Did you communicate your
knowledge of the filing of a trademark
application for the mark APOTHÉKE with
your sister?

MR. PAMPALONE: Objection.

Asked and answered.

A. Both Heather and Albert.

Q. Separately or together?

A. Together.

Q. Was this an in-person
communication?

A. Yes.

Q. Where did it take place?

A. Few different locations. Mainly
at the establishment, APOTHÉKE.

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CHRISTOPHER TIERNEY

Q. Your first communication with Albert and Heather, what did you say?

A. Regarding?

Q. Regarding your knowledge that Albert had filed a trademark application for the mark APOTHÉKE.

A. I think the first line of communications would be along the lines of Albert, you filed for the company's trademark in your personal name. You are aware that it is the company's property and not yours.

Q. What did Albert say?

A. He agreed and understood that it was the company's and said he would talk to his attorneys about how to or get advice from his counsel on what to do.

Q. What did Heather say?

A. I think Heather agreed the same lines, it was the company's and not Albert's individually.

Q. You mentioned there was subsequent conversations relating to this topic?

1 CHRISTOPHER TIERNEY

2 A. Correct.

3 Q. What happened in the next
4 conversation?

5 A. Conversations were always
6 redundant. Albert, you have filed for the
7 trademark individually, it's the
8 company's. We need to make the trademark
9 for the company and not you individually.

10 Q. What did Albert say?

11 A. Again, he for the most part
12 would agree and say he would talk to his
13 counsel about how he can do it.

14 Q. Did there come a time where you
15 communicated with Albert's counsel Tom
16 Piticoff related to this topic?

17 A. Not that I can recall.

18 Q. I'm going to show you what's
19 been previously marked as Applicant's
20 Exhibit 7. Please review the document.

21 (Handing.)

22 (Witness reviews document.)

23 Q. Have you reviewed the document?

24 A. Yes.

25 Q. Do you recognize this document