

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

EJW

Mailed: August 16, 2016

Opposition No. 91219403 (parent)

Opposition No. 91221395

*Margaritaville Enterprises, LLC*

*v.*

*Rachel A Bevis DBA Rachel A Bevis*

**ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:**

On August 10, 2016, the parties, represented by Joel Feldman (of Greenberg Traurig LLP) for Opposer and Rachel Bevis, *pro se*, Applicant, and Elizabeth Winter, the assigned Interlocutory Attorney, held a teleconference to discuss pre-trial scheduling, and the Board's Accelerated Case Resolution (ACR) procedures. *See* Trademark Rule 2.120(i)(1); and TBMP § 502.06(a) (2016). The parties agreed to the following modifications to the traditional proceeding schedule and procedures, and hereby stipulate to the following:

- 1) The parties will forego pretrial disclosures and trial, including submission of notices of reliance and testimony depositions, and will submit the two cases to the Board by means of their previously-filed summary judgment briefs (*i.e.*, those submitted on June 29, 2015 and August 5, 2015 (Opposer) and on July 17, 2015 (Applicant));

- 2) The parties may supplement their previously-filed summary judgment briefs, and the supplementary briefs shall not exceed 25 pages, not including exhibits and affidavits;
- 3) The parties will rely upon the evidence submitted in connection with the previously-filed motion for summary judgment and any supplemental declarations or affidavits, and exhibits;
- 4) The declarations or affidavits and any attached exhibits may be offered into evidence without any objection by the adverse party as to their form, but the parties reserve their respective objections as to hearsay, competency, accuracy, relevance, materiality and/or weight to be afforded;
- 5) The parties will comply with the Protective Order in effect in these proceedings in connection with any submissions they make pursuant to this stipulation;
- 6) Opposer, Margaritaville Enterprises, LLC, is allowed until SIXTY (60) DAYS from the mailing date of this order to submit its supplemental ACR brief, in summary judgment format, not to exceed 25 pages in length;
- 7) Applicant, Rachel A Bevis DBA Rachel A Bevis, is allowed until THIRTY (30) DAYS from the date of service of Opposer's supplemental ACR brief to file her supplemental ACR brief, if any, in summary judgment format, not to exceed 25 pages in length;
- 8) A rebuttal brief, if any, shall be due from Opposer no later than FIFTEEN (15) DAYS after the date of service of Applicant's supplementary ACR brief, if any, and said rebuttal brief may not exceed 10 pages in length;

- 9) The parties retain their respective right to an oral hearing and shall notify the Board no later than TEN (10) DAYS after the due date for Opposer's rebuttal brief whether either party seeks to appear at an oral hearing;
- 10) The record and arguments created by the utilization of the ACR process, including the record of the previously filed motion for summary judgment, will be the entire record and the Board may resolve any remaining genuine issues of material facts that are necessary to the Board's resolution of the instant case on its merits in consideration of the parties' respective summary judgment and supplemental briefs; and
- 11) The burden of proof that requires a showing by the preponderance of the evidence by the Opposer remains applicable to these proceedings.
- 12) If any disputes arise regarding this stipulation, or the ACR briefs, declarations or affidavits, or accompanying exhibits submitted pursuant to this stipulation, the parties agree to make a good faith effort to resolve such disputes by telephone before notifying the Board; and if the parties are unable to resolve their disputes by telephone, the parties will jointly notify the assigned Interlocutory Attorney by telephone and request a telephone conference to resolve the dispute;
- 13) The parties' ACR schedule is based on the present intent of the parties. In the event that circumstances surrounding these proceedings change or the parties need additional time, the parties reserve the right to request modification of

the ACR briefing schedule, subject to Board approval by jointly requesting a telephone conference with the Interlocutory Attorney.

In view of the foregoing, it is **ORDERED** that the parties' stipulation is hereby accepted and made of record in these proceedings.

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