

ESTTA Tracking number: **ESTTA860041**

Filing date: **11/21/2017**

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

Proceeding	91226828
Party	Defendant Jules Taylor Holdings Limited
Correspondence Address	JUSTINE K WONG HIGGS FLETCHER & MACK LLP 401 W A ST STE 2600 SAN DIEGO, CA 92101-7913 UNITED STATES Email: trademarks@higgslaw.com
Submission	Opposition/Response to Motion
Filer's Name	Justine K Wong
Filer's email	trademarks@higgslaw.com
Signature	/justinekwong/
Date	11/21/2017
Attachments	Opposition to Motion to Strike.pdf(3990677 bytes)

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

Domaine du Grand Cros,
Opposer,

v.

Jules Taylor Holdings Limited,
Applicant.

Opposition No.: 91226828
Regarding Application No. 86670573
Mark: JULES

**APPLICANT’S OPPOSITION TO OPPOSER’S MOTION TO STRIKE APPLICANT’S
NOTICE OF DEPOSITION OF JULIAN FAULKNER**

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) §§ 404 and 533.02, 37 CFR §§ 2.123 and 2.124, and Fed. R. Civ. P. 28(a), Applicant Jules Taylor Holdings Limited (“Applicant”) hereby requests the Trademark Trial and Appeal Board (“Board”) deny Opposer Domaine du Grand Cros’ (“Opposer”) Motion to Strike Applicant’s Notice of Deposition of Julian Faulkner (“Opposer’s Motion to Strike”) on the following grounds: (1) Applicant’s notice of deposition is in full compliance with TBMP § 404.07(d); 37 CFR § 2.124(c) and Fed. R. Civ. P. 28(a); (2) Applicant’s notice has no bearing on Opposer’s ability to object to the qualifications of the officer administering the oath; (3) Opposer’s Motion to Strike is procedurally improper; and (4) Opposer’s motion was filed solely for the purposes of unduly delaying the proceeding and to seek additional time to respond to the deposition notice.

ARGUMENTS

I. Applicant’s Notice of Deposition is Compliant

In accordance with TBMP § 404.07(d) and 37 CFR § 2.124(c), the notice of deposition must include the name or descriptive title of the officer before whom the deposition is to be taken. Opposer acknowledges that Applicant’s notice of deposition describes the title of the

officer as an “officer authorized to administer oath.” 17 TTABVUE 2. Despite this fact, Opposer asserts that the federal rules “should be interpreted” to require some further specificity. Furthermore, Opposer argues that according to TBMP § 404.04, depositions in a foreign country will usually be taken by someone authorized by the law of the foreign country to administer oaths or a United States Consular Official, and thus Applicant’s notice of deposition must include the title of a United States Consular Officer. 17 TTABVUE 2. As the moving party requesting further specificity, Opposer offers no case law to support its interpretation of TBMP § 404.04, and no evidence to show that Applicant’s notice of deposition fails to comply with the relevant rules. Instead, Opposer simply relies on its own interpretation and merely concludes that the relevant rules and procedure “should be interpreted” as requiring more specificity.

On the other hand, Applicant’s Notice of Deposition of Julian Faulkner by Written Question complies with the customary manner in which Notices of Deposition by Written Questions are filed and served to foreign parties, including those noticed in France. Declaration of Justine K. Wong (Wong Decl.) at ¶ 10; Exhibit D. As shown in Exhibit D, Notices of Depositions Upon Written Questions describe the title of the officer before whom the deposition is to be taken as “an officer authorized to administer oaths,” or “a court reporter authorized to administer oaths.” While Applicant intends to hold the deposition at the United States Consulate General in Marseille and have a United States Consular Officer administer the oath, it has not yet secured French Central Authority approval. Wong Decl. at ¶ 9. In order to obtain such approval, Applicant must submit, among other items, the final list of questions. Wong Decl. at ¶ 2. Applicant has been unable to finalize the questions without Opposer’s cross questions and willingness to move forward. Wong Decl. at ¶ 9. Upon receiving approval from the French Central Authority, Applicant will schedule the deposition for a mutually agreed upon date, but

cannot be assured of the specific date or United States Consular Officer administering the oath. Wong Decl. at ¶¶ 4, 11. Once Applicant receives the details regarding the deposition, it will freely provide Opposer with the specificity it requests. Wong Decl. at ¶ 11.

In view of the foregoing, Applicant's Notice of Deposition complies with the relevant rules and procedures, and is in accordance with the customary manner in which Notices of Deposition by Written Questions are filed and served to foreign parties.

II. Opposer's Ability to Object to Qualifications of the Officer Unaffected

Opposer misstates TBMP § 404.08(b) and 37 CFR § 2.123(j), as neither rule supports its contention that it has a "right to object" to the qualifications of the officer upon receiving the Notice of Deposition. Instead, TBMP § 404.08(b) only sets forth when objections to the officer's qualifications are waived. *An objection based upon the disqualification of the officer before whom the deposition is to be taken is waived* unless it is made before the deposition begins, or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence. TBMP § 404.08(b). Thus, Opposer's argument that it will be unable to "engage in the necessary actions" to object to the qualifications of the officer is without merit as TBMP § 404.08(b) gives Opposer the opportunity to do so even after the deposition has occurred. Thus, the notice of deposition has no bearing on Opposer's ability to object.

III. Motion to Strike is Improper

Opposer's Motion to Strike should be denied as procedurally improper. Opposer has the right to maintain its objection on the grounds of improper notice but raising such objection, through a motion to strike, does not set aside the deposition notice or toll the deadline for Opposer to serve objections and cross questions. *See* TBMP § 533. Further, a motion to strike for inadequate notice must request the exclusion of the entire deposition. *See* TBMP §

533.02(a); 37 CFR § 2.123(e)(3)(ii). As no deposition has been taken to date, Opposer's Motion to Strike is procedurally improper and should be denied. Instead, Opposer should have filed a motion to quash the notice, or contacted the Board to settle by telephone conference as time was of the essence. *Sunrider Corp. v. Raats*, 83 USPQ2d 1648, 1652 and 1655 (TTAB 2007) (overruling objections that notice of deposition was facially deficient and noting that a ruling on sufficiency of notice could have been made by seeking a telephone conference with a Board attorney).

IV. Opposer's Motion Filed Solely for Purpose of Delay

Opposer's motion was filed solely for the purposes to unduly delay the proceeding and to seek additional time to respond to the notice of deposition. Opposer was aware of the upcoming deadlines to serve objections and cross questions. Wong Decl. at ¶ 5; Exhibit C. As discussed above, if Opposer wanted to resolve any alleged defect in the notice of deposition, it would have contacted the Board to seek a timely resolution. Instead, an improper motion to strike was filed to seek additional time for Opposer to serve cross questions, needlessly delaying the proceeding, and wasting Board resources. Based on the evidence provided, Opposer objections are meritless as there are no relevant grounds to require Applicant re-serve its Notice of Deposition. Applicant has cooperated with Opposer beyond a reasonable degree by way of providing a detailed response to Opposer's concerns through email exchange. Wong Decl. at ¶ 6; Exhibit C. Opposer responded with the same meritless objections raised and has never asked for Applicant's consent for additional time to serve cross questions. Wong Decl. at ¶ 7; Exhibit C. Instead of preserving its rights and serving objections and cross questions, Opposer filed the instant motion to postpone any upcoming deadlines. Wong Decl. at ¶ 8.

///

CONCLUSION

For the reasons set forth above, Applicant respectfully requests that Opposer's Motion to Strike be denied. Furthermore, Applicant respectfully requests that Opposer's time to object and serve cross questions not be reset and relevant due dates as calculated from the date of service of the notice of deposition remain as set.

Dated: November 21, 2017

Respectfully submitted,



Justine K. Wong, Esq.
Charles F. Reidelbach, Jr., Esq.
Higgs, Fletcher & Mack LLP
401 West "A" Street, Suite 2600
San Diego, CA 92101-7910
Telephone: (619) 236-1551
Facsimile: (619) 696-1410
Email: trademarks@higgslaw.com
ATTORNEYS FOR APPLICANT

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing APPLICANT'S OPPOSITION TO OPPOSER'S MOTION TO STRIKE APPLICANT'S NOTICE OF DEPOSITION OF JULIAN FAULKNER was served on November 21, 2017 to Martin J. Beran, attorney of record for Opposer Domaine du Grand Cros via email to:

Martin J. Beran
Ostrolenk Faber LLP
1180 Avenue of the Americas FL 7
New York, NY 10036
MBeran@ostrolenk.com
tm@ostrolenk.com

Dated: November 21, 2017

By: 
Tiffany Caldwell, Paralegal

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

Domaine du Grand Cros,
Opposer,

v.

Jules Taylor Holdings Limited,
Applicant.

Opposition No.: 91226828
Regarding Application No. 86670573
Mark: JULES

DECLARATION OF JUSTINE K. WONG

I, Justine K. Wong, declare:

1. I am an attorney at Higgs Fletcher & Mack LLP in San Diego, California. We are trademark attorneys for Applicant Jules Taylor Holdings Limited (“Applicant”). Except as to those facts which I am informed are true, I have personal knowledge of the facts contained within this declaration, and if called upon as a witness, I could and would testify competently thereto.

2. On or around August 31, 2017, I researched the requirements for conducting a civil deposition in France for a United States proceeding. I visited the website at <https://travel.state.gov/content/travel/en/legal-considerations/judicial/country/france.html> to determine the procedure to obtain French Central Authority approval to conduct a written deposition of Julian Faulkner in France. The procedure requires, among other things, that Applicant submit the questions to be asked at the written deposition before the French Central Authority will approve the deposition. A true and correct copy of the website is attached as **Exhibit A**.

3. Based upon my review of Exhibit A, I decided to hold the written deposition of Julian Faulkner at the United States Consulate General in Marseille, the closest United States

Embassy or Consulate to his business address of Carnoules, France. In addition, I decided to have a United States Consular Officer from the United States Consulate General's office in Marseille, France administer the oath.

4. On or around August 31, 2017, I reviewed a document sent by local counsel in France from the Embassy of the United States of America. The document indicated that due to space, budget, and personnel constraints within the Embassy, some depositions may not be accommodated at the Embassy. Due to these issues, the Embassy expects the parties to work together if required to depart from the procedures. A true and correct copy of the document is attached as **Exhibit B**.

5. On October 19, 2017, I received an email from Opposer's counsel, Charles P. LaPolla, regarding Opposer's objections to the form of the Notice of Deposition of Julian Faulkner by Written Questions, which was filed with the Trademark Trial and Appeal Board and served on Opposer on October 13, 2017. Mr. LaPolla requested that I respond as soon as possible in view of the twenty (20) day deadline for Opposer to serve cross questions.

6. On October 20, 2017, I responded to Mr. LaPolla's email and provided Opposer with a detailed response of Applicant's position, including citations to relevant rules supporting the form used by Applicant within the Notice of Deposition by Written Questions.

7. On October 23, 2017, I received another email from Mr. LaPolla with the same objections and arguments set forth in his October 19, 2017 email. Mr. LaPolla never asked for Applicant's consent for additional time to serve cross questions. A true and correct copy of the email is attached as **Exhibit C**.

8. Cross questions were due November 2, 2017, and to date, I have not received any

objections or cross questions from Opposer.

9. On November 1, 2017, I received an email from Mr. LaPolla with Opposer's Motion to Strike or in the Alternative For a Protective Order or Extension of Time, wherein Opposer requested an extension of time to serve cross questions. Because Opposer requested additional time to serve cross questions, I am unable to finalize the questions and obtain French Central Authority approval.

10. On November 20, 2017, I searched the Internet for Notices of Deposition Upon Written Questions in Trademark Trial and Appeal Board Proceedings. I found six (6) Notice of Depositions Upon Written Questions for depositions of foreign parties that were filed with the Trademark Trial and Appeal Board. These notices stated the descriptive title of the officer before whom the deposition is to be taken as "an officer authorized to administer oaths," or "a court reporter authorized to administer oaths." True and correct copies of the Notice of Depositions Upon Written Questions are attached as **Exhibit D**.

11. Upon receiving French Central Authority approval to conduct the written deposition of Julian Faulkner in France, I will schedule the deposition with the United States Consular General in Marseille for a mutually agreed upon date. Once the details are confirmed and the United States Consular Officer who will administer the oath has been identified, I will freely provide Opposer with the specific details it requests.

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 own knowledge are true and all

statements made on information and belief are believed to be true.

Executed this 21st day of November, 2017, at San Diego, California.

/justinekwong/
Justine K. Wong

Exhibit A



TRAVEL.STATE.GOV

U.S. DEPARTMENT OF STATE - BUREAU OF CONSULAR AFFAIRS

LEGAL CONSIDERATIONS

U.S. Citizenship
Laws & Policies

**International Judicial
Assistance**

International Treaties
& Agreements

International Child
Support Enforcement

Service of Process Obtaining Evidence Enforcement of Judgements Authentication of Documents Retaining a Foreign Attorney Country Information

travel.state.gov > Legal Considerations > International Judicial Assistance > Country Information > **France**



France

Official Name: French Republic

LAST UPDATED: NOVEMBER 15, 2013

Print Email

Party to Hague Service Convention? **Yes**
Party to Hague Evidence Convention? **Yes**
Party to Hague Apostille Convention? **Yes**
Party to Inter-American Convention? **No**
Service of Process by Mail? **Yes**

DISCLAIMER

DISCLAIMER: THE INFORMATION IS PROVIDED FOR GENERAL INFORMATION ONLY AND MAY NOT BE TOTALLY ACCURATE IN A SPECIFIC CASE. QUESTIONS INVOLVING INTERPRETATION OF SPECIFIC FOREIGN LAWS SHOULD BE ADDRESSED TO THE APPROPRIATE FOREIGN AUTHORITIES OR FOREIGN COUNSEL.

Embassies and Consulates	+
List of Attorneys	+
Helpful Links	+
Service of Process	+
Criminal Matters	+
Obtaining Evidence in Civil and Commercial Matters	+
Taking Voluntary Depositions of Willing Witnesses	-

Voluntary depositions may be conducted in France of U.S. citizens. Depositions of French citizens and third country nationals require prior permission of the French Central Authority for the Hague Evidence Convention and require a commission issued by a court in the United States. The French Central Authority will not approve any deposition taken on notice. The U.S. Embassy or Consulate must have the documentation at least 45 days prior to the proposed deposition date and French translations in order to request permission of the French Central Authority. The commission to take the deposition must reference the Hague Evidence Convention, must include precise information on:

- The name of the court
- The name of the judge or issuing authority
- The names of parties to the case and their representatives
- The names and addresses (and telephone numbers, if available) of all witnesses to be summoned.
- The questions to be put to the witnesses, or a statement of the subject matter on which they are to be examined.
- The name of any of the parties, or their representatives, who plan to attend the deposition.
- The names, address, and telephone numbers of the stenographer and interpreter who have been selected, if any.
- Whether the parties to the case have consented to the deposition, and if not, the reasons for any objection which has been made.
- A suggested date for the deposition, if there is a preference, in no case less than 45 days after the Embassy or Consulate receives the above information.

A deposit for fees is required and can be arranged through the Embassy or Consulate where the deposition will take place. The Embassy or Consulate will notify all parties planning to attend the deposition of the date set as soon as authorization has been received from the Ministry of Justice.

Country Information

Enter a Country



Enroll in Step

Enrolling in this free service will allow us to better assist you in case of an emergency while you are abroad.

The deposition must be held on Embassy or Consulate premises. If participants wish to hold the deposition elsewhere, they must explain fully why it cannot be held on Embassy or Consulate premises, and the Ministry of Justice will decide whether such a request can be approved. The deposition must be open to the public. - The date and time of the deposition must be communicated to the Ministry of Justice in advance. The witnesses must be summoned by written notice in French at least 15 days in advance of the deposition date. The written notice, sent by the Consulate or Embassy, must include assurances that appearances are voluntary, that the witnesses may be represented by a lawyer, and that the parties to the case have consented to the deposition. The Embassy or Consulate will request authorization for the deposition from the Ministry of Justice.

Authentication of Documents



» About Us

» Newsroom

» Reports and Statistics

» Legal Considerations

» Find a U.S. Embassy or Consulate

» Contact Us

» Careers

» Consular Notification and Access

STAY CONNECTED

Dipnote Blog

@travelgov

Facebook

Youtube

Flickr

RSS



[Privacy](#) · [Copyright & Disclaimer](#) · [FOIA](#) · [No FEAR Act Data](#) · [Office of the Inspector General](#) · [USA.gov](#) · [GobiernoUSA.gov](#)

This site is managed by the Bureau of Consular Affairs, U.S. Department of State.

Exhibit B

EMBASSY OF THE UNITED STATES OF AMERICA
American Citizen Services
2, avenue Gabriel
75382 Paris Cedex 08
Fax: 01-42-61-61-40
Email address: citizeninfo@state.gov

TAKING EVIDENCE IN FRANCE IN CIVIL AND COMMERCIAL MATTERS

Since October 1974, **The Hague Convention of 1970 on Taking of evidence Abroad in Civil and Commercial Matters** has been in force in France. Arrangements to take evidence in France for use in civil cases before courts in the United States must therefore be made in accordance with the general provisions of that convention and, be subject to certain specific provisions established by the French Government. The Convention provides **three means** to take evidence:

- I- DEPOSITION BEFORE A LOCAL JUDICIAL AUTHORITY BY MEANS OF LETTERS ROGATORY (LETTERS OF REQUEST)
- II- DEPOSITION BEFORE A DIPLOMATIC OR CONSULAR OFFICER
- III- DEPOSITIONS BEFORE A PERSON COMMISSIONED BY THE COURT

I - DEPOSITION BEFORE A LOCAL JUDICIAL AUTHORITY BY MEANS OF LETTERS ROGATORY (LETTERS OF REQUEST)

By these means, a judicial authority in the United States requests the competent French judicial authority to obtain evidence or to perform some other judicial act. Such letters rogatory should be sent by the court in the United States to the following address:

Ministère de la Justice
Direction des Affaires civiles et du Sceau
Bureau de l'Entraide judiciaire en Matière civile et commerciale
13, place Vendôme
75042 Paris Cedex 01
France

Documents must be written in French, or accompanied by a translation in French, and should specify:

- (1) The authority requesting its execution and the authority requested to execute it (name of the court), or the “appropriate judicial authority in France”;
- (2) The name and address of the parties to the proceedings, and their representatives;
- (3) The nature of the proceedings, and all necessary information pertaining to it;
- (4) The evidence to be obtained;
- (5) The names and addresses of the persons to be examined;
- (6) The questions to be put to the witnesses, or a statement of the subject matter on which they are to be examined;
- (7) The documents or other property to be inspected;
- (8) Whether the evidence is to be given under oath or affirmation, and any specific form of oath that must be used;
- (9) Whether any special procedure or method should be followed in taking the evidence.

In the absence of special instructions under items (2) and (9), the French court executing the letters rogatory will follow its own normal procedures.

The court issuing the letters rogatory may ask to be informed on the date and place of the proceedings, and parties of the case and their representatives may be present. Judges of the requesting court may also ask to attend the proceedings.

There are no fees required for the execution of letters of requests; however, the French court may require reimbursement for any fees paid to experts, interpreters, or expenses incurred as a result of use of special procedures requested by U.S. court.

The Embassy cannot monitor the process. It can take several months to have such a request completed.

II – DEPOSITIONS BEFORE A DIPLOMATIC OR CONSULAR OFFICER

Evidence may be taken in France by deposition before a diplomatic or consular officer of the United States (Articles 15 and 16 of the Convention and Title 288 United States Code, Section 2072). Depositions may only be taken by commission issued by the competent court. Depositions on notice for French nationals or third country nationals living in France will

not be approved by the French Ministry of Justice. The Ministry of Justice also will not approve requests to take evidence, as pre-trial discovery for cases not yet pending in court.

The commission should be issued to "any consular officer of the United States assigned to (the city where the Consulate is, or in the case of Paris, the Embassy), France" rather than to any specific name or title of consular officer.

Before evidence may be taken from French nationals or third country nationals residing in France, authorization must be obtained in advance from the **Bureau de l'Entraide judiciaire en Matière civile et commerciale** of the Ministry of Justice. The Embassy or consulate must have all the documents pertaining to the case at least 45 days before the deposition is to be held. The following specific provisions must be met:

- Per the convention, the deposition should be held on Embassy premises but it is not possible for security reasons: When transmitting the request, the Embassy will ask the Ministry of Justice to waive this requirement.
- The deposition must be open to the public
- The date and time of the deposition must be communicated to the Ministry of Justice in advance.
- The witnesses must be summoned by written notice in French at least 15 days in advance of the deposition date. The written notice, sent by the consulate or Embassy, must include assurances that appearances are voluntary, that a lawyer may represent the witnesses, and that the parties to the case have consented to the deposition. The Embassy or consulate will request authorization for the deposition from the Ministry of Justice.

CONSULAR FEES:

There is a \$1,283 non-refundable scheduling fee. If rescheduled, another non-refundable scheduling fee will be collected. There is a statutory fee of \$309 an hour of consular officer time during the actual deposition. A notarial fee of \$415 for the notarial service related to the deposition closing certificate (if needed) is also charged. Fees can be paid by credit card.

**Policy relating to
Acceptance and Processing of Civil Depositions
By the Consular Section, Paris, France**

Serious space, budget, and personnel constraints, as well as Embassy security considerations require that we impose the following conditions on the acceptance of civil depositions for use in U.S. courts:

For security reasons and because access of the public cannot be granted, most depositions cannot take place on Embassy premises. The Ministry of Justice understands this problem and currently authorizes the deposition to take place on another location than the Embassy premises. Still, this authorization is given on a case by case basis.

The attorneys for the various parties will be expected to agree that, after oaths are administered, the record will reflect their mutual agreement to the departure of the consular official, subject to recall for cause by the parties in the event of dispute; and normal existing consular fees shall remain in force as well.

When a deposition is scheduled to take place off-site:

1. The Consular Section will advise the appropriate office of the Ministry of Justice that the deposition listed needs to be taken "off-site;"
2. All charges for the office space/hotel will be the direct responsibility of the party seeking the deposition;
3. The attorneys for the various parties will be expected to agree that, after oaths are administered, the record will reflect their mutual agreement to the departure of the consular official, subject to recall for cause by the parties in the event of dispute; and
4. Normal existing consular fees shall remain in force as well.

NECESSARY INFORMATION, DOCUMENTS, AND TRANSLATIONS:

In all cases involving witnesses of French nationality or third-country nationals residing in France, the Embassy must have the information or documents listed below at least 45 days **before** the deposition is to be held. This timing is necessary in order to allow sufficient time to obtain authorization from the Ministry of Justice, provide the required advance notice to witnesses, and finalize internal arrangements for the deposition.

All documents on the following list must be provided, with French translation:

The commission to take the deposition, referring to the Hague Convention with precise information on:

- The name of the court;
- The name of the judge or issuing authority;
- The names of parties to the case and their representatives;
- The names, addresses and telephone number of all witnesses to be summoned;
- The questions to be put to the witnesses, or a statement of the subject matter on which they are to be examined;
- The names of any of the parties, or their representatives, who plan to attend the deposition;
- Whether the parties to the case have consented to the deposition, and if not, the reasons for any objection;

The name, address and telephone number of the stenographer and interpreter who have been selected, if any;

STENOGRAPHERS AND/OR INTERPRETERS: It is the responsibility of the party arranging the deposition to contract and pay for any necessary stenographic or interpretive services. The Embassy maintains lists of stenographers and interpreters but assumes no responsibility for the professional ability or integrity of the individuals or firms listed therein.

TELEPHONE DEPOSITIONS: When a telephone deposition is exceptionally approved by the Ministry of Justice, Consular officers may administer oaths to witnesses who will be deposed by telephone from the United States. The call should be placed by attorneys in the United States and consular fees are the same as noted above for depositions. At the present time, adequate facilities to take telephone depositions are not available in the Embassy premises. Therefore, telephone depositions must be approved and arranged for off-site.

The Embassy will notify all parties planning to attend the deposition of the date set as soon as authorization has been received from the Ministry of Justice and arrangements finalized.

III - DEPOSITIONS BEFORE A PERSON COMMISSIONED BY THE COURT

Evidence may also be taken in France by deposition before any competent person commissioned by a court in the United States. Authorization must be obtained in advance by the individuals participating in the deposition from the Bureau de l'Entraide Judiciaire International of the Ministry of Justice. All information listed under Part 1, "Deposition Before a Local Judicial Authority by Means of Letters Rogatory" above should be sent to the Ministry of Justice at least 45 days before the deposition will be held.

In addition, the request for authorization from the Ministry of Justice must include:

- An explanation of the reasons for choosing this method of taking evidence, taking into account the judicial costs involved; and
- The criteria for designating the individual commissioned to take evidence.

The Embassy does not assist in requesting Ministry of Justice authorization in cases where the commissioned competent person is not a consular officer of the United States.

All of the other provisions and the general procedure described above for depositions before a consular officer must be followed, except that there is no consular fee because the services of a consular officer are not required.

Updated July 23, 2015

Exhibit C

From: Charles P. LaPolla <CLaPolla@ostrolenk.com>
Sent: Monday, October 23, 2017 2:30 PM
To: Wong, Justine K.
Cc: Martin J. Beran
Subject: RE: 7/6415-2 - Domain du Grand Cros v. Jules Taylor Holdings Limited--Opposition No. 91226828 [IWOV-WORKSITE.FID856153]

Justine: We do not agree with the position which have taken regarding Applicant's Notice of Deposition of Julian Falkner by Written Questions.

Federal Rule 28(a) simply sets forth the type of persons before whom depositions can be taken in the United States or a foreign country. This Federal Rule does not govern what needs to be set forth in a Notice to a Take Deposition by Written Questions in a Board proceeding. Rather, this is governed by TMBP 404.05 and 404.07(d) and 37 CFR 2.124(b)(2) and (c). With respect to your reference to TMBP 404.08 (b)-(c), we believe that this sets forth the latest time by which an objection to the qualifications of designated officer can be raised but does not address or diminish the requirements for what must be set forth in the initial Notice to Take a Deposition upon Written Questions. Furthermore, while we agree that making a reference to an "officer authorized to administer oaths" is common and acceptable in Federal Court cases and TTAB cases for oral depositions, we do not believe that this complies with the requirement for setting forth the name or descriptive title of the officer before whom the deposition is to be taken in a Notice to Take a Deposition upon Written Questions in a TTAB proceeding. TMBP 404.04 indicates that a deposition in a foreign country will usually be taken before anyone authorized by the law of the foreign country to administer oaths therein or a United States consular official. Taking the foregoing into consideration as well as the overall procedures in the TMBP for the taking of depositions by written questions, we believe that the reference to satisfying the notice requirement by providing the "descriptive title" of the officer before whom the deposition will be taken is intended to refer to providing an appropriate title such as the title of a United Consular Officer where Mr. Falkner resides in France and not simply to "an officer authorized to administer oaths". In particular, we believe that the information provided concerning the designated officer in the notice must be sufficient to permit Opposer to give consideration to the issue of objecting to the qualifications of such officer, for Opposer to know to whom all the questions and objections will eventually be forwarded to by Applicant and before whom Mr. Falkner needs to appear to respond to the written questions.

With respect to the issue of filing a copy of the Notice of Deposition with the Board, we note that we were never served with the request for filing the Notice to Take Deposition with the Board and it still is not appearing on the TTAB web site. We assume that this may be because your filing lacked a Certificate of Service.

In view of the foregoing, I would appreciate it if you would advise whether Applicant is willing to reconsider its position and re-serve a new corrected Notice to Take deposition. Otherwise, it appears that we will need to file a Motion to Strike the Notice to Take Deposition or alternatively for a Protective Order.

Charles

This message originates from the law firm indicated below. It contains information which may be confidential or privileged and is intended only for the individual or entity named above. It is prohibited for anyone else to disclose, copy, distribute or use the contents of this message. All personal messages express views solely of the sender, which are not to be attributed to the law firm, and may not be copied or distributed without this disclaimer. If you received this message in error, please notify us immediately through the below listed contact information.

Charles P. LaPolla

Ostrolenk Faber LLP
1180 Avenue of the Americas
New York, New York 10036
[Tel:\(212\) 596-0571](tel:(212)596-0571)
[Fax:\(212\) 382-0888](tel:(212)382-0888)
[Cell:\(914\)649-3089](tel:(914)649-3089)
clapolla@ostrolenk.com

From: Wong, Justine K. [<mailto:wongj@higgslaw.com>]

Sent: Friday, October 20, 2017 5:52 PM

To: Charles P. LaPolla

Cc: Martin J. Beran; IP; Reidelbach, Charles F.; Caldwell, Tiffany; Jeong, Susan

Subject: RE: 7/6415-2 - Domain du Grand Cros v. Jules Taylor Holdings Limited--Opposition No. 91226828 [IWOV-WORKSITE.FID856153]

Charles,

We disagree that there are any deficiencies with the form of our Notice of Deposition. In your email below, you indicated that we failed to file a copy of the Notice of Deposition (excluding the questions and documents requested) with the Board. However, we filed the Notice with the Board on October 13, 2017, the same date we served your firm with the Notice and the accompanying exhibits. The Board acknowledged receipt of the Notice of Deposition within the attached email, which your firm also received.

In addition, the Notice of Deposition fully complies with Fed. R. Civ. P. 28(a) and the relevant federal rules. As you correctly note, the Notice of Deposition must set forth the name **or descriptive title of the officer before whom the deposition is to be taken**. TBMP § 404.07(d); 37 CFR § 2.124(c) (emphasis added). Here, the Notice of Deposition includes a descriptive title of the officer, specifically an “officer authorized to administer oaths.” It is standard practice in federal court and with the TTAB to describe the officer in this manner, and there is no such requirement to offer a description with more specificity.

To address your concern that witness’s counsel must be allowed to object to the qualifications of the officer administering the oath, this may be done at the time of the deposition or **soon thereafter as grounds for disqualification becomes known or could be discovered with reasonable diligence**. See TBMP § 404.08(b)-(c) (emphasis added).

In view of the foregoing, the Notice of Deposition of Julian Faulkner by Written Question meets all statutory requirements, and there is no need to withdraw and re-serve.

Regards,

Justine



Justine K. Wong | Attorney at Law

Phone (619) 236.1551

Fax (619) 696.1410

Email wongj@higgslaw.com

401 West A Street, Suite 2600, San Diego, CA
92101

www.higgslaw.com

Please read the [legal disclaimers](#) that govern this e-mail and any attachments.

TAX ADVICE: Any federal tax advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code or promoting, marketing, or recommending any transaction or matter discussed herein.

From: Charles P. LaPolla [<mailto:CLaPolla@ostrolenk.com>]

Sent: Thursday, October 19, 2017 4:15 PM

To: Wong, Justine K. <wongj@higgslaw.com>

Cc: Martin J. Beran <MBeran@ostrolenk.com>

Subject: FW: 7/6415-2 - Domain du Grand Cros v. Jules Taylor Holdings Limited--Opposition No. 91226828

Justine: I am writing to object to the form of the Notice of Deposition of Julian Falkner By Written Objections which was served by your firm on October 13, 2017. Specifically, Board procedures require the this Notice of Deposition set forth the name or descriptive title of the officer before whom the deposition is to be taken. TMBP Sec. 404.07 c ;37 CFR Secs. 2.124 (b) 2 and 2.124 c. At the completion of the process of questions and any cross -questions, re-direct questions, re-cross questions , objections and responsive alternative questions, it is the responsibility of the party seeking the deposition to forward all of the questions to the officer designated in the Notice of Deposition for the purpose of such officer recording the witness' resposes to the questions which are provided before the officer. TMBP Sec. 404.07e; 37 CFR Sec. 2.124 (e). Moreover, counsel for the witness being deposed has the right to object to the qualifications of the officer before whom the deposition will be taken any time before the deposition begins or as soon thereafter as the grounds for disqualification become known or could have been discovered with reasonable diligence. TMBP Sec. 404.08 (b); 37 CFR Sec. 2.123(j). Obviously, the foregoing cannot take place if the name or descriptive title of officer before whom the deposition is to be taken is not provided in the Notice of Deposition. I note that your Notice of Deposition only indicates that the deposition shall be taken before "an officer to administer oaths" This is not adequate. I also note that you have failed to file a copy of the Notice of Deposition (excluding questions and document requests) with the Board as required under Board procedures. TMBP Sec. 404.07 (d); 37 CFR Sec. 2.124 (b)(2).

In view of the foregoing , I am requesting that Applicant withdraw the aforementioned current Notice of Deposition and re-serve a new Notice of Deposition which sets forth the name or descriptive title of the officer before whom the deposition is to be taken and that such officer meet the requirements of Fed. R. Civ. P. 28(a) and TMBP Sec.404.04. It is further requested the new re-served Notice of Deposition (excluding the questions and document requests) be filed with the Board.

Please note that the foregoing is not in any way a waiver of Opposer's right to object to questions and any re-direct questions or the document requests or any other objections.

I would appreciate it if you can back to me with Applicant's position as soon as possible in view the 20 day deadline for Opposer to serve cross-questions.

Charles

This message originates from the law firm indicated below. It contains information which may be confidential or privileged and is intended only for the individual or entity named above. It is prohibited for anyone else to disclose, copy, distribute or use the contents of this message. All personal messages express views solely of the sender, which are not to be attributed to the law firm, and may not be copied or distributed without this disclaimer. If you received this message in error, please notify us immediately through the below listed contact information.

Charles P. LaPolla
Ostrolenk Faber LLP
1180 Avenue of the Americas
New York, New York 10036
[Tel:\(212\) 596-0571](tel:(212)596-0571)
Fax:(212) 382-0888
Cell:(914)649-3089
clapolla@ostrolenk.com

Exhibit D

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

SYNDICAT DES PROPRIETAIRES
VITICULTEURS DE CHATEAUNEUF-DU-
PAPE,

OPPOSER,

v,

Establissemments QUINSON,

APPLICANT.

Opposition No. 91179408

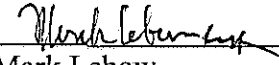
Serial No. 78/971,147

**NOTICE OF DEPOSITION OF
Norbert Olszak**

PLEASE TAKE NOTICE that Opposer SYNDICAT DES PROPRIETAIRES VITICULTEURS DE CHATEAUNEUF-DU-PAPE, will take the testimony of Norbert Olszak, c/o Young & Thompson, 209 Madison St., Suite 500, Alexandria, VA 22314, by deposition upon written questions before an officer authorized to administer oaths at Ernst & Young Société d'Avocats, 1025 Rue Henri Becquerel, CS 39520, 34961 Montpellier Cedex 2, or at a different location in France to be determined by the parties, on May 20, 2009 or on a different date and time to be determined by the parties. The deposition will be recorded by a certified court reporter, who will record the deposition stenographically. The deposition will include the assistance of a translator as needed. Attached as Exhibit A are the written, direct questions to be propounded to Mr. Olszak, as are the several exhibits referenced in those questions.

Mr. Olszak is a professor at the University Paris 1 Panthéon-Sorbonne and is a lecturer for The Centre d'Etudes Internationales de la Propriété Industrielle ("CEIPI"). Mr. Olszak will testify regarding the French system of Appellations of Origin and geographical indications as well as to the usurpation of the name Châteauneuf-du-Pape.

Dated: February 27, 2009
Alexandria, Virginia

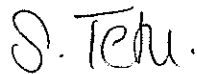

Mark Lebow
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314
Tel. (703) 521-2297

Counsel for Opposer

Certificate of Service

I herby certify that the within **NOTICE OF DEPOSITION OF Norbert Olszak** was served on this 27th day of February 2009 by placement with overnight courier, addressed to the below listed counsel of record.

H. John Campaign
GRAHAM, CAMPAIGN P.C.
The Bar Building
36 West 44th Street
Suite 1201
New York, NY 10036-8178



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

SYNDICAT DES PROPRIETAIRES
VITICULTEURS DE CHATEAUNEUF-DU-
PAPE,

OPPOSER,

v,

Etablissemments QUINSON,

APPLICANT.

Opposition No. 91179408
Serial No. 78/971,147

**NOTICE OF DEPOSITION OF
Bruno Le Roy de Boiseaumarié**

PLEASE TAKE NOTICE that Opposer SYNDICAT DES PROPRIETAIRES VITICULTEURS DE CHATEAUNEUF-DU-PAPE, will take the testimony of Bruno Le Roy de Boiseaumarié, c/o Young & Thompson, 209 Madison St., Suite 500, Alexandria, VA 22314, by deposition upon written questions before an officer authorized to administer oaths at Ernst & Young Société d'Avocats, 1025 Rue Henri Becquerel, CS 39520, 34961 Montpellier Cedex 2, or at different location in France to be determined by the parties, on May 19, 2009 or a different date and at a time to be determined by the parties. The deposition will be recorded by a certified court reporter, who will record the deposition stenographically. The deposition will include the assistance of a translator as needed. Attached hereto as Exhibit A are the written, direct questions to be propounded to Mr. Le Roy de Boiseaumarié, as are the several exhibits that are referenced in the questions.

Mr. Le Roy de Boiseaumarié is the President of the Fédération des syndicats de producteurs de Châteauneuf-du-Pape and is a grower and wine producer, Château Fortia, Route de Bédarrides, Châteauneuf-du-Pape. Mr. Le Roy de Boiseaumarié will offer testimony

regarding the history, use, promotion, and fame of the CHATEAUNEUF-DU-PAPE trademark;
the Fédération's and Opposer's role as related to the Appellation Châteauneuf-du-Pape and the
CHATEAUNEUF-DU-PAPE trademark; the usurpation of the CHATEAUNEUF-DU-PAPE
trademark; French legal actions are related to the CHATEAUNEUF-DU-PAPE trademark; and
the risk of confusion for the consumer.

Dated: February 27, 2009
Alexandria, Virginia

Mark Lebow
Mark Lebow
YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314
Tel. (703) 521-2297

Counsel for Opposer

Certificate of Service

I hereby certify that the within **NOTICE OF DEPOSITION OF Bruno Le Roy de
Boiseaumarié** was served on this 27th day of February 2009 by placement with overnight
courier, addressed to the below listed counsel of record.

H. John Campaign
GRAHAM, CAMPAIGN P.C.
The Bar Building
36 West 44th Street
Suite 1201
New York, NY 10036-8178

S. Tetue

In the Matter of Trademark Application Serial Nos. 85/177,445 / 85/177,446
Filed on November 16, 2010
For the mark CHRISTIAN LACROIX
Published in the *Official Gazette* on July 12, 2011 / September 20, 2011

Opposition No. 91201563 (parent)
91202642

1

Further, pursuant to 37 CFR § 2.124(e), a certified reporter (officer) designated by Opposer shall take the testimony of the witness in response to the questions and shall record each answer immediately after the corresponding question. The officer shall then certify the transcript and mail the transcript and exhibits to Opposer's counsel. Opposer's deposition questions are attached as **Appendix A** to this notice and were previously provided with Opposer Christian Lacroix's Notice of Testimonial Deposition Upon Written Examination of Nicolas Topiol dated October 31, 2013 ("the October 31, 2013 Notice"). Opposer's deposition questions remain unchanged from those set forth in the October 31, 2013 Notice. Accordingly, any objections made by Applicant to Opposer's October 31, 2013 deposition questions set forth herein are untimely and improper pursuant to the applicable trademark rules, namely, TBMP 703.02, TBMP 707.03, TBMP 707.04, 37 CFR 2.124(b)(1), 37 CFR 2.124(d)(1), and 37 CFR 2.124(e).

Respectfully submitted,

Dated: August 8, 2014

By: /Lisa A. Karczewski/
Lena Bacani
Lisa A. Karczewski
FOX ROTHSCHILD LLP
1055 W. Seventh Street, Suite 1880
Los Angeles, CA 90017
Telephone: (213) 624-6560
Fax: (310) 556-9828
Email: lbacani@foxrothschild.com;
lkarczewski@foxrothschild.com
Attorneys for Opposer CHRISTIAN LACROIX

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2014, I served a true copy of the foregoing **OPPOSER CHRISTIAN LACROIX'S SECOND AMENDED NOTICE OF TESTIMONIAL DEPOSITION UPON WRITTEN EXAMINATION OF NICOLAS TOPIOL** upon Applicant CHRISTIAN LACROIX, SNC's counsel via electronic mail, addressed as follows:

Gabriel Groisman, Esq.
COFFEY BURLINGTON
2601 South Bayshore Drive, Penthouse
Miami, FL 33133
E-Mail: gg@coffeyburlington.com, yvb@coffeyburlington.com,
service@coffeyburlington.com, kkaplan@coffeyburlington.com

/Lisa A. Karczewski/
Lisa A. Karczewski
FOX ROTHSCHILD LLP
1055 W. Seventh Street, Suite 1880
Los Angeles, CA 90017
Telephone: (213) 225-2602
Fax: (310) 556-9828
Email: lkarczewski@foxrothschild.com

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

MULTI ACCESS LIMITED,

Petitioner,

v.

WANG LAO JI FOOD & BEVERAGE
SUBSIDIARY,

Registrant.

Cancellation No. 92054959

U.S. Trademark Reg. No. 2,153,322
for the mark WANG LAO JI

Registration Date: April 28, 1998

**MULTI ACCESS LIMITED'S NOTICE OF TESTIMONIAL DEPOSITION
UPON WRITTEN QUESTIONS**

To: Trina A. Longo, Esq.
Schiffirin & Longo, P.C.
8201 Greensboro Drive
Suite 300
McLean, VA 22102
trina@schiffirinlaw.com

Allen Xue, Esq.
Anova Law Group, PLLC
8230 Boone Blvd.
Suite 347
Vienna, VA 22032
allen.xue@anovalaw.com

PLEASE TAKE NOTICE that, pursuant to Rule 2.124 of the Trademark Rules and Rules 28 and 31 of the Federal Rules of Civil Procedure, Petitioner, Multi Access Limited, shall take the testimonial deposition upon written questions of Lizhuan Chen, Manager, Legal Department, Guangzhou Wanglaoji Pharmaceutical Company Limited, 831 Guanghua Er Road, Baiyun District, Jianggao Township, Guangzhou, Guanddong

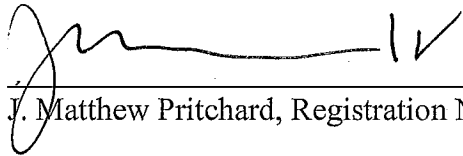
Province, CHINA before a Notary Public or other person authorized to administer oaths by the law of China. The deposition shall be transcribed by stenographic means.

Attached hereto as Exhibit A is a copy of the direct examination questions and exhibits (service copy only).

You are invited to serve cross questions within the time allowed by Rule 2.124(d)(1).

Respectfully Submitted,

Dated: March 25, 2013

A handwritten signature in black ink, appearing to read 'J. Matthew Pritchard', with a stylized flourish at the end.

J. Matthew Pritchard, Registration No. 46,228

THE WEBB LAW FIRM, P.C.
One Gateway Center
420 Ft. Duquesne Blvd., Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 471-8815
Facsimile: (412) 471-4094

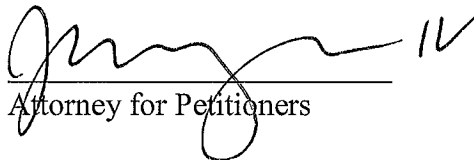
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that a true and correct copy of **MULTI ACCESS LIMITED'S NOTICE OF TESTIMONIAL DEPOSITION UPON WRITTEN QUESTIONS** was served this 25th day of March, 2013, upon the following by via electronic mail:

Trina A. Longo, Esq.
Schiffirin & Longo, P.C.
8201 Greensboro Drive
Suite 300
McLean, VA 22102
trina@schiffirinlaw.com

Allen Xue, Esq.
Anova Law Group, PLLC
8230 Boone Blvd.
Suite 347
Vienna, VA 22032
allen.xue@anovalaw.com



Attorney for Petitioners

Exhibit A

Question 1:

State your name, employer and title for the record.

Question2:

Do you understand that you are testifying today under oath?

Question 3:

Provide a copy of **MULTI ACCESS LIMITED'S NOTICE OF TESTIMONIAL DEPOSITION UPON WRITTEN QUESTIONS TO** the witness for review.

Have you seen that document before?

Question 4:

If so, please authenticate it and state your understanding that the testimony you are providing today is for use in the proceeding before the United States Trademark Trial and Appeal Board.

Question 5:

In particular, please indicate that you understand that the proceeding is directed to the Cancellation of your firm's United States Trademark Registration No. 2,153,322.

Question 5:

Provide a copy of Registrant's United States Trademark Registration No. 2,153,322 to the witness for review.

Have you seen that document before?

Question 6:

Describe all of the facts and circumstances relating, in any way, to your personal involvement in the application for, prosecution and maintenance of United States Trademark Registration No. 2,153,322.

Question 7:

Describe all of the facts and circumstances relating, in any way, as to your knowledge of the application for the mark that is the subject of United States Application Serial Number 75/078,159.

Question 8:

Describe all of the facts and circumstances relating, in any way, as to your knowledge of to prosecution of the mark that is the subject of United States Application Serial Number 75/078,159.

Question 9:

Describe all of the facts and circumstances relating, in any way, as to your knowledge of the maintenance, including but not limited to, the filing of the Declaration of Use on March 10, 2004, the Combined Declaration of Use and Renewal on May 8, 2007 and the Section 15 filing on May 15, 2007 of the mark that is the subject of United States Trademark Registration Number 2,153,322.

Question 10:

Describe all of the facts and circumstances relating, in any way, as to your knowledge of the ownership, including, but not limited to name changes or other changes in status, of the owner of the mark that is the subject of United States Trademark Registration Number 2,153,322.

Question 11:

Describe all of the facts and circumstances relating, in any way, as to your knowledge of the record title to United States Trademark Registration Number 2,153,322.

Question 12:

Provide a copy of documents previously marked WLJ000012-19 to the witness for review.

Have you seen these document before?

Question 13:

If so, please authenticate and describe them.

Question 14:

Turning to WLJ000014, please indicate your understanding of who Luo Suifong is or was and his capacity with your firm.

Question 15:

Turning to WLJ000019, please indicate your understanding of who Eric Chan is or was and his capacity or relationship with your firm.

Question 16:

Was it the intention of your firm to cause Mr. Chan to become the Correspondent of Record in your registration?

Question 17:

Did you receive, from Mr. Chan or anyone else, any documents relating the Section 8 Declaration filed with the United States Patent and Trademark Office on March 10, 2004?

Question 18:

If so, did you produce them during discovery?

Question 19:

If not, why not?

Question 20:

Provide a copy of documents previously marked WLJ000020-26 to the witness for review.

Have you seen these documents before?

Question 21:

If so, please authenticate and describe them.

Question 22:

Turning to WLJ000020, please indicate your understanding of who Kevin Zhang is or was and his capacity or relationship with your firm.

Question 23:

Was it the intention of your firm to cause Mr. Zhang to become the Correspondent of Record in your registration?

Question 24:

Was Mr. Zhang an employee, in any capacity, of your firm?

Question 25:

Did Mr. Zhang ever own United States Trademark Registration Number 2,153,322?

Question 26:

Did your firm authorize Mr. Zhang to sign the Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on May 8, 2007 with the United States Patent and Trademark Office on behalf of it?

Question 27:

If so, describe how it did so?

Question 28:

By what authority did Mr. Zhang have to bind your firm?

Question 29:

Turning to WLJ000025, please indicate your understanding of what is depicted there.

Question 30:

Does the image depicted on WLJ000025 show the use of the mark that is the subject of United States Trademark Registration Number 2,153,322 in commerce in the United States?

Question 31:

Is the image depicted on WLJ000025 merely a facsimile of the mark that is the subject of United States Trademark Registration Number 2,153,322?

Question 32:

Did you receive, from Mr. Zhang or anyone else, any documents relating the Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on May 8, 2007 with the United States Patent and Trademark Office?

Question 33:

If so, did you produce them during discovery?

Question 34:

If not, why not?

Question 35:

Provide a copy of documents previously marked WLJ000027-31 to the witness for review.

Have you seen that documents before?

Question 36:

If so, please authenticate and describe them.

Question 37:

Turning to WLJ000027, please indicate whether this document provides authorization from your firm to Hon.Ban Patent & Trademark Firm to take any action or actions?

Question 38:

If so, describe that action or actions in detail?

Question 39:

To your knowledge, was that action or actions taken?

Question 40:

Did you receive any other correspondence or documents from Hon.Ban Patent & Trademark Firm relating the Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on May 8, 2007 with the United States Patent and Trademark Office?

Question 41:

If so, did you produce them during discovery?

Question 42:

If not, why not?

Question 43:

Turning to WLJ000029, please indicate whether the seal or chop of your firm appears on that document?

Question 44:

Turning to WLJ000031, please indicate whether the seal or chop of your firm appears on that document?

Question 45:

Provide a copy of documents previously marked WLJ000032-36 to the witness for review.

Have you seen these documents before?

Question 46:

If so, please authenticate and describe them.

Question 47:

Turning to WLJ000033, please indicate your understanding of who Kevin Zhang is or was and his capacity or relationship with your firm.

Question 48:

Did your firm authorize Mr. Zhang to sign the Declaration of Incontestability of a Mark under Section 15 on May 15, 2007 with the United States Patent and Trademark Office on behalf of it?

Question 49:

If so, describe how it did so?

Question 50:

By what authority did Mr. Zhang have to bind your firm?

Question 51:

Did you receive, from Mr. Zhang or anyone else, any documents relating the Declaration of Incontestability of a Mark under Section 15 on May 15, 2007 with the United States Patent and Trademark Office?

Question 52:

If so, did you produce them during discovery?

Question 53:

If not, why not?

Question 53:

Provide a copy of documents previously marked WLJ000040-44 to the witness for review.

Have you seen these documents before?

Question 54:

If so, please authenticate and describe them.

Question 55:

Turning to WLJ000040, please indicate whether Wang Lao Ji Food & Beveragesubsiary, Yangcheng Pharmaceutical Stock Corp. Ltd of Guangzhou is identical or a successor to or assignee of Guangzhou WangLoaJi Pharmaceutical Co., Ltd. Food and Beverage Branch? If not, please

Question 56:

Has Wang Lao Ji Food & Beveragesubsiary, Yangcheng Pharmaceutical Stock Corp. Ltd of Guangzhou ever changed its name?

Question 57:

Turning to WLJ000041-44, please describe in detail the contents of those documents.

Question 58:

Do you have any knowledge why Mr. Zhang signed the Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on May 8, 2007 with the United States Patent and Trademark Office rather than the document depicted in WLJ000028-29?

Question 60:

Do you have any knowledge why Mr. Zhang signed the Declaration of Incontestability of a Mark under Section 15 on May 15, 2007 with the United States Patent and Trademark Office rather than the document depicted in WLJ000030-31?

-END-

TRADEMARK

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

In the matter of Trademark Application
Serial No. 78/363024
Filed February 5, 2004
For the mark HAVANA CLUB
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,)	
	)	Opposition No. 91165519
Opposer,)	
)	
v.)	
)	
ANNCAS, INC.,)	
)	
Applicant.)	
)	

**RE-NOTICE OF TAKING TESTIMONY DEPOSITION
UPON WRITTEN QUESTIONS**

PLEASE TAKE NOTICE THAT, pursuant to Fed. R. Civ. P. 31, and 37 C.F.R. §§ 2.120(c) and 2.124, Corporacion Habanos, S.A. (“Opposer”), by its attorneys, will take the testimony deposition on written questions, pursuant to the attached written questions and exhibits, of Manuel Garcia Morejon, pursuant to the procedures set forth in 37 C.F.R. § 2.124, at the office of AROCHI, MARROQUIN & LINDER, Torre Mural, Insurgentes Sur 1605, 20th Floor, 03900 Mexico, D.F. Mexico, on May 15, 2007, at 9:30 a.m.

The deposition shall be taken, under oath, before a court reporter authorized to administer oaths in the place where the deposition is held, either by the law thereof, or by the law of the United States, or by other person so authorized in Fed. R. Civ. P. 28. The verbal responses to the written questions shall be recorded by the court reporter.

Dated: April 2, 2007

Respectfully submitted,

By: /David B. Goldstein/
David B. Goldstein
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
111 Broadway, 11th Floor
New York, New York 10006
(212) 254-1111

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on Applicant by mailing, postage prepaid, said copy on April 2, 2007 via U.S. Mail to:

Jesus Sanchelima.
SANCHELIMA & ASSOCIATES, P.A.
235 S.W. Le Jeune Road
Miami, FL 33 134- 1762
rodriguez@sanchelima.com
Counsel for Applicant Anncas, Inc.

 /David B. Goldstein/
DAVID B. GOLDSTEIN

CERTIFICATE OF ELECTRONIC FILING

I HEREBY CERTIFY that the foregoing document in Opposition No. 91165519 is being filed electronically on behalf of Corporacion Habanos, S.A., today, April 2, 2007, on the Electronic System for Trademark Trial and Appeals for the United States Patent and Trademark Office (without Schedule A or exhibits).

 /David B. Goldstein/
David B. Goldstein

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

In the matter of Trademark Application
Serial No. 78/363024
Filed February 5, 2004
For the mark HAVANA CLUB
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,)	
	)	Opposition No. 91165519
Opposer,)	
)	
v.)	
)	
ANNCAS, INC.,)	
)	
Applicant.)	
)	

**RE-NOTICE OF TAKING TESTIMONY DEPOSITION
UPON WRITTEN QUESTIONS**

PLEASE TAKE NOTICE THAT, pursuant to Fed. R. Civ. P. 31, and 37 C.F.R. §§ 2.120(c) and 2.124, Corporacion Habanos, S.A. (“Opposer”), by its attorneys, will take the testimony deposition on written questions, pursuant to the attached written questions (Schedule A) and attached exhibits, of Eumelio Espino Marrero, pursuant to the procedures set forth in 37 C.F.R. § 2.124, at the office of AROCHI, MARROQUIN & LINDER, Torre Mural, Insurgentes Sur 1605, 20th Floor, 03900 Mexico, D.F. Mexico, on May 15, 2007, at 1p.m.

The deposition shall be taken, under oath, before a court reporter authorized to administer oaths in the place where the deposition is held, either by the law thereof, or by the law of the United States, or by other person so authorized in Fed. R. Civ. P. 28. The verbal responses to the written questions shall be recorded by the court reporter.

Dated: April 2, 2007

Respectfully submitted,

By: /David B. Goldstein/
David B. Goldstein
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
111 Broadway, 11th Floor
New York, New York 10006
(212) 254-1111

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on Applicant by mailing, postage prepaid, said copy on April 2, 2007 via U.S. Mail to:

Jesus Sanchelima.
SANCHELIMA & ASSOCIATES, P.A.
235 S.W. Le Jeune Road
Miami, FL 33 134- 1762
rodriguez@sanchelima.com
Counsel for Applicant Anncas, Inc.

 /David B. Goldstein/
DAVID B. GOLDSTEIN

CERTIFICATE OF ELECTRONIC FILING

I HEREBY CERTIFY that the foregoing document in Opposition No. 91165519 is being filed electronically on behalf of Corporacion Habanos, S.A., today, April 2, 2007, on the Electronic System for Trademark Trial and Appeals for the United States Patent and Trademark Office (without Schedule A or exhibits).

 /David B. Goldstein/
David B. Goldstein

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

McDONALD'S CORPORATION,)		
	)	Application Nos.	78/947,247
Opposer,	)		77/722,272
	)	Opposition Nos.	91178758
)		
v.	)		91192099
)		
McSWEET, LLC,	)	Consolidated under:	91178758
)		
Applicant.	)	Mark:	McSWEET

**APPLICANT'S NOTICE OF TESTIMONIAL DEPOSITION
UPON WRITTEN QUESTIONS OF MCILHENNY COMPANY BY MARTIN MANION, VICE
PRESIDENT OF CORPORATE MARKETING FOR MCILHENNY COMPANY**

TO: John A. Cullis, Esq.
Lawrence E. James, Esq.
Robert E. Browne, Esq.
NEAL, GERBER & EISENBURG LLP
Two North LaSalle Street, Suite 1700
Chicago, Illinois 60602

PLEASE TAKE NOTICE that Applicant, McSweet, LLC ("McSweet") will take the testimonial deposition upon written questions of McIlhenny Company by Martin Manion, Vice President of Corporate Marketing for McIlhenny Company, pursuant to 37 CFR §2.124 and Rule 28 of the Federal Rules of Civil Procedure.

The noticed testimonial deposition will take place at Highway 329, Avery Island, Louisiana, 70513 before a notary public or other officer authorized to administer the oaths under the law and will be recorded by stenographic means. The date of this deposition will be scheduled upon the completion of Applicant's testimonial deposition upon written questions. Mr. Manion's testimonial deposition is to be used by Applicant in connection with Consolidated Proceeding No. 91178758.

Pursuant to 37 CFR §2.124(d)(1), this Notice is accompanied by Applicant's written questions that will be propounded to Martin Manion of McIlhenny Company on behalf of Applicant.

The materials designated for production, to be set out in the subpoena of the witness, are set forth in Schedule A.

Dated this 9th day of September, 2011.

Respectfully submitted,

McSWEET, LLC

By: /Caitlin A. Bellum/
Caitlin A. Bellum
Katherine Hendricks
Hendricks & Lewis PLLC
901 Fifth Avenue, Suite 4100
Seattle, Washington 98164
(206) 624-1933
Attorneys for Applicant

SCHEDULE A

Documents and Things Requested

1. Documents reflecting gross revenues from the sales of McIlhenny's Tabasco Sauce products sold at retail for each of the following years: 2008, 2009 and 2010.
2. Documents reflecting the annual expenditures for advertising and promotion of McIlhenny's Tabasco Sauce products sold at retail for each of the following years: 2008, 2009, 2010.

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2011 I served a true and complete copy of the foregoing **APPLICANT'S NOTICE OF TESTIMONIAL DEPOSITION UPON WRITTEN QUESTIONS OF MCILHENNY COMPANY BY MARTIN MANION, VICE PRESIDENT OF CORPORATE MARKETING FOR MCILHENNY COMPANY** via email and First Class U.S. Mail, postage pre-paid, upon:

Robert E. Browne, Esq.
John A. Cullis, Esq.
Lawrence E. James, Jr., Esq.
Neal, Gerber & Eisenberg, LLP
2 North LaSalle Street, Suite 2200
Chicago, IL 60602
Telephone: (312) 269-8000
Facsimile: (312) 269-1747
Email: rbrowne@ngelaw.com
Email: mturner@ngelaw.com
Email: jcullis@ngelaw.com
Email: ljames@ngelaw.com


Mark Washburn