

ESTTA Tracking number: **ESTTA903969**

Filing date: **06/19/2018**

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

Proceeding	91234074
Party	Plaintiff Southwestern Management, Inc.
Correspondence Address	ROBERT E PURCELL THE LAW OFFICE OF ROBERT E PURCELL PLLC 211 WEST JEFFERSON STREET, SUITE 24 SYRACUSE, NY 13202 UNITED STATES Email: rpurcell@repurcelllaw.com
Submission	Other Motions/Papers
Filer's Name	Robert E. Purcell
Filer's email	rpurcell@repurcelllaw.com
Signature	/Robert E. Purcell/
Date	06/19/2018
Attachments	2018-06-19-Response-91264074.pdf(105584 bytes ) 2018-06-19-Attachment.pdf(363653 bytes )

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

In the Matter of Application Serial No. 76/577,252  
Published in the Official Gazette of January 3, 2017

-----X  
SOUTHWESTERN MANAGEMENT, INC.

*Opposer,*

-vs-

Opposition No. 91234074

OCINOMLED, LTD

*Applicant.*

-----X

**OPPOSER'S RESPONSE TO BOARD'S NOTICE**


Opposer, Southwestern Management, Inc., ("Southwestern") hereby responds to the TTAB's Order dated June 19, 2018 requesting information regarding "the status of the civil action which occasioned the suspension of this proceeding."

Southwestern understands the civil action is still pending, has not been settled, and is in the pre-trial stage. A print-out from the federal court PACER system showing the first two pages and the last three pages of the docket sheet for the civil action is attached.

For the reasons previously persuasive to the TTAB, Southwestern continues to request that this opposition proceeding be suspended pending the outcome of the related civil action.

Dated: June 19, 2018

Respectfully submitted,  
The Law Office of Robert E. Purcell, PLLC



---

Robert E. Purcell, Esq.  
211 West Jefferson Street, Suite 24  
Syracuse, New York 13202  
(315) 671-0710 – Telephone  
(315) 671-0711 – Fax  
[rpurcell@repurcelllaw.com](mailto:rpurcell@repurcelllaw.com) – E-mail

ATTORNEY FOR OPPOSER

**CERTIFICATE OF SERVICE**

I certify that on the 19 day of June, 2018 a copy of the foregoing OPPOSER'S MOTION TO SUSPEND PROCEEDINGS was sent via e-mail and First Class U.S. Mail, to the following:

Dickerson M. Downing  
Law Offices of Dickerson M. Downing  
17th Floor 243 Tresser Boulevard  
Stamford, CT 06901  
ddowning@downingip.com

---

Allison Haines

CASREF,ECF,MEDTFR4

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:15-cv-09805-GHW**

Ocinomled Ltd. et al v. Five "M" Corp. et al  
Assigned to: Judge Gregory H. Woods  
Referred to: Magistrate Judge Barbara C. Moses  
(Settlement)  
Cause: 15:1121 Trademark Infringement

Date Filed: 12/16/2015  
Jury Demand: Both  
Nature of Suit: 840 Trademark  
Jurisdiction: Federal Question

**Plaintiff**

**Ocinomled Ltd.**

represented by **Joshua Donovan Liston**  
Beys, Liston & Mobargha LLP  
(LEXINGTON)  
641 Lexington Avenue, 14th Floor  
New York, NY 10022  
646-755-3600  
Fax: 646-755-3599  
Email: [jliston@blmlp.com](mailto:jliston@blmlp.com)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael Petros Beys**  
Beys, Stein & Mobargha, LLP  
405 Lexington Avenue  
New York, NY 10174  
(646)-755-3605  
Fax: (646)-755-3599  
Email: [mbeys@blmlp.com](mailto:mbeys@blmlp.com)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jamie Mark Brickell**  
Pryor Cashman LLP  
7 Times Square  
New York, NY 10036-6569  
212 326 0869  
Fax: 212 326 0806  
Email: [jbrickell@pryorcashman.com](mailto:jbrickell@pryorcashman.com)  
*TERMINATED: 04/04/2018*

**Maryaneh Mona Simonian**  
Pryor Cashman LLP  
7 Times Square  
New York, NY 10036-6569

(212)421-4100  
Fax: (212)326-0806  
Email: msimonian@pryorcashman.com  
*TERMINATED: 04/04/2018*

**Plaintiff**

**50/50 Restaurant Corp.**

represented by **Joshua Donovan Liston**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael Petros Beys**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Alan C Trachtman**  
Nourse & Bowles, LLP  
One Exchange Plaza  
New York, NY 10006  
(212)952-6209  
Fax: (212)952-0345  
Email: alantrachtman@verizon.net  
*ATTORNEY TO BE NOTICED*

**Jamie Mark Brickell**  
(See above for address)  
*TERMINATED: 04/04/2018*

**Maryaneh Mona Simonian**  
(See above for address)  
*TERMINATED: 04/04/2018*

**Plaintiff**

**Omer Grgurev**

represented by **Joshua Donovan Liston**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Michael Petros Beys**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Jamie Mark Brickell**  
(See above for address)  
*TERMINATED: 04/04/2018*

**Maryaneh Mona Simonian**

		Distribution LLC, Branko Turcinovic, Five "M" Corp..(Trachtman, Laura) (Entered: 05/16/2018)
05/18/2018	<u>229</u>	JOINT PRELIMINARY TRIAL REPORT. Document filed by Ferdo Grgurev, Omer Grgurev. (Attachments: # <u>1</u> Exhibit A: Plaintiffs' Witness List, # <u>2</u> Exhibit B: Defendants' Witness List, # <u>3</u> Exhibit C: Plaintiffs' Deposition Designations, # <u>4</u> Exhibit D: Defendants' Deposition Designations, # <u>5</u> Exhibit E: Plaintiffs' Exhibit List, # <u>6</u> Exhibit F: Defendants' Exhibit List)(Liston, Joshua) (Entered: 05/18/2018)
05/18/2018	<u>230</u>	REQUEST TO CHARGE. Document filed by Ferdo Grgurev, Omer Grgurev. (Liston, Joshua) (Entered: 05/18/2018)
05/18/2018	<u>231</u>	PROPOSED VOIR DIRE QUESTIONS. Document filed by Ferdo Grgurev, Omer Grgurev.(Liston, Joshua) (Entered: 05/18/2018)
05/18/2018	<u>232</u>	PROPOSED JURY INSTRUCTIONS. Document filed by Ferdo Grgurev, Omer Grgurev.(Liston, Joshua) (Entered: 05/18/2018)
05/18/2018	<u>233</u>	REQUEST FOR VOIR DIRE. Document filed by Ferdo Grgurev, Omer Grgurev.(Liston, Joshua) (Entered: 05/18/2018)
05/23/2018	<u>234</u>	MEMORANDUM OF LAW in Opposition re: <u>217</u> MOTION for Leave to File Second Amended Complaint . . Document filed by 268 SH Realty Corp., 268 SH Restaurant Corp., Delmonico's Distribution LLC, Five "M" Corp., Milan Licul, Branko Turcinovic, Dennis Turcinovic. (Trachtman, Laura) (Entered: 05/23/2018)
05/25/2018	<u>235</u>	ORDER. The Court has received the parties' courtesy copies of their motions in limine. Plaintiffs have submitted copies of their moving papers, but have not submitted the opposition and reply papers. Plaintiffs are directed to submit complete courtesy copies of their motions in limine in accordance with Rule 3 (B) of the Court's Individual Rules of Practice in Civil Cases. Additionally, the Court has not received the required courtesy copies of the parties' trial submissions. The parties are directed to submit those courtesy copies in accordance with the Court's Individual Rule 5(E). (HEREBY ORDERED by Judge Gregory H. Woods on May 25, 2018) (Text Only Order)(Woods, Gregory) (Entered: 05/25/2018)
05/29/2018	<u>236</u>	REPLY MEMORANDUM OF LAW in Support re: <u>217</u> MOTION for Leave to File Second Amended Complaint . . Document filed by Ferdo Grgurev, Omer Grgurev. (Liston, Joshua) (Entered: 05/29/2018)
05/29/2018	<u>237</u>	REPLY AFFIRMATION of Joshua D. Liston in Support re: <u>217</u> MOTION for Leave to File Second Amended Complaint .. Document filed by Ferdo Grgurev, Omer Grgurev. (Attachments: # <u>1</u> Exhibit Excerpt of May 1, 2018 Conference Transcript)(Liston, Joshua) (Entered: 05/29/2018)
05/30/2018	<u>238</u>	JOINT LETTER addressed to Judge Gregory H. Woods from Michael P. Beys dated May 30, 2018 re: Documentary Exhibits. Document filed by Ferdo Grgurev, Omer Grgurev.(Beys, Michael) (Entered: 05/30/2018)
05/31/2018	<u>239</u>	MEMO ENDORSEMENT on re: <u>238</u> Letter filed by Ferdo Grgurev, Omer Grgurev. ENDORSEMENT: Application granted in part. The Court will

		review the anticipated exhibits in its preparation for the June 28, 2018 final pretrial conference. Accordingly, the deadline for submission of the parties' documentary trial exhibits is extended to June 13, 2018, but no later. SO ORDERED. (Signed by Judge Gregory H. Woods on 5/30/2018) (anc) (Entered: 05/31/2018)
05/31/2018	<u>240</u>	TRANSCRIPT of Proceedings re: conference held on 5/1/2018 before Judge Gregory H. Woods. Court Reporter/Transcriber: Martha Martin, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/21/2018. Redacted Transcript Deadline set for 7/2/2018. Release of Transcript Restriction set for 8/29/2018.(McGuirk, Kelly) (Entered: 05/31/2018)
05/31/2018	<u>241</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a conference proceeding held on 5/1/18 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(McGuirk, Kelly) (Entered: 05/31/2018)
06/06/2018	<u>242</u>	ANSWER to <u>228</u> Counterclaim. Document filed by Ferdo Grgurev, Omer Grgurev.(Liston, Joshua) (Entered: 06/06/2018)
06/08/2018	<u>243</u>	LETTER MOTION to Substitute Attorney. Old Attorney: Alan C. Trachtman, New Attorney: Arnold & Porter addressed to Judge Gregory H. Woods from Alan C. Trachtman dated June 8, 2018. Document filed by 268 SH Realty Corp., 268 SH Restaurant Corp., Delmonico's Distribution LLC, Five "M" Corp., Milan Licul, Branko Turcinovic.(Trachtman, Laura) (Entered: 06/08/2018)
06/08/2018	<u>244</u>	ORDER. As stated on the record during the telephone conference on June 8, 2018, the Court will treat Plaintiffs' opposition to the corporate Defendants' proposed substitution of counsel as a motion to disqualify Arnold & Porter from representing those Defendants. Plaintiffs' briefing in connection with their request to disqualify Arnold & Porter is due no later than June 14, 2018. Defendants' opposition is due no later than one week after service of the briefing. Plaintiffs' reply, if any, is due no later than three days after service of the opposition. (HEREBY ORDERED by Judge Gregory H. Woods on June 8, 2018) (Text Only Order)(Woods, Gregory) (Entered: 06/08/2018)
06/14/2018	<u>245</u>	LETTER addressed to Judge Gregory H. Woods from Joshua D. Liston dated June 14, 2018 re: Stipulation and [Proposed] Order. Document filed by Ferdo Grgurev, Omer Grgurev.(Liston, Joshua) (Entered: 06/14/2018)
06/14/2018	<u>246</u>	STIPULATION AND ORDER: IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for all parties that: 1. Plaintiffs do not oppose the Letter Motion of Defendants Five "M" Corp., 268 SH Restaurant Corp, and Delmonico's Distribution LLC to substitute counsel (the "Letter Motion") (Dkt. No. 243). 2. Arnold & Porter Kaye Scholer LLP



		<p>("A&amp;P") agrees that it will maintain all screening procedures set forth in the Letter Motion through the conclusion of this matter. 3. A&amp;P agrees to inform Plaintiffs of any breaches of or non-compliance with, those screening procedures. 4. A&amp;P and Defendants agree that they will not oppose on timeliness grounds any disqualification motion that arises if (a) the representations in the Letter Motion are incorrect; or (b) any breaches of, or non-compliance with, the screening procedures occur. 5. Plaintiffs do not concede that A&amp;P has complied with the New York Rules of Professional Conduct (the "Rules"). 6. A&amp;P does not concede that there has been any breach of the Rules. 7. A&amp;P is aware of, and will abide by, the Stipulation and Order dated December 14, 2017, precluding the use of funds of Nominal Plaintiff Ocinomled, Ltd. for legal fees and expenses. 8. Nothing in this Stipulation is intended to limit the Court's inherent authority regarding the disqualification of attorneys. 9. All parties consent to this Stipulation to be submitted to the Court to be "So Ordered." The Court endorses the parties' stipulation to substitute counsel. The law firm of Arnold &amp; Porter is substituted as counsel for defendants Five "M" Corp., Delmonico's Distribution LLC, and 268 SH Restaurant Corp. The Clerk of Court is directed to terminate the motion pending at Dkt. No. 243 and to remove Alan Trachtman as counsel for Five "M" Corp., Delmonico's Distribution LLC, and 268 SH Restaurant Corp. Counsel from Arnold &amp; Porter is directed to file a notice of appearance on behalf of those defendants promptly. Attorney Alan C Trachtman terminated. (Signed by Judge Gregory H. Woods on 6/14/2018) (mro) (Entered: 06/15/2018)</p>
06/18/2018	<a href="#"><u>247</u></a>	NOTICE OF APPEARANCE by Louis Sherman Ederer on behalf of 268 SH Restaurant Corp., Delmonico's Distribution LLC, Five "M" Corp.. (Ederer, Louis) (Entered: 06/18/2018)
06/18/2018	<a href="#"><u>248</u></a>	NOTICE OF APPEARANCE by Paul C. Llewellyn on behalf of 268 SH Restaurant Corp., Delmonico's Distribution LLC, Five "M" Corp.. (Llewellyn, Paul) (Entered: 06/18/2018)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
06/19/2018 09:50:53			
<b>PACER Login:</b>	purcellooffice:3550571:0	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:15-cv-09805-GHW
<b>Billable Pages:</b>	30	<b>Cost:</b>	3.00