

ESTTA Tracking number: **ESTTA963478**

Filing date: **03/28/2019**

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

| | |
|------------------------|---|
| Proceeding | 91242788 |
| Party | Defendant JMM Lee Properties, LLC |
| Correspondence Address | MICHAEL J LEE JMM LEE PROPERTIES LLC 2807 ANTIGUA DR BURBANK, CA 91504 UNITED STATES mlee@jmmlee.com 206-850-6596 |
| Submission | Motion to Quash |
| Filer's Name | Michael J. Lee |
| Filer's email | mlee@jmmlee.com |
| Signature | /MJLee/ |
| Date | 03/28/2019 |
| Attachments | MotionToQuash.pdf(125200 bytes) |

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

In the matter of application Serial Nos. 87/367,487 and 87/355,854
For the Trademarks RUEHL NO.925 in Class 18 and RUEHL NO.925 in Class 25
Published in the Official Gazette on April 3, 2018

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|---|---|-------------------------|
| ABERCROMBIE & FITCH TRADING CO. |) | |
| |) | |
| Opposer, |) | |
| v. |) | |
| JMM Lee Properties, LLC, |) | Opposition No. 91242788 |
| |) | |
| Applicant. |) | |
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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

APPLICANT'S MOTION TO QUASH OPPOSERS'S NOTICE OF DEPOSITION

Applicant, JMM Lee Properties, LLC moves to quash Opposer's Notice of Deposition Pursuant to Rule 30 of the Federal Rules of Civil Procedure and TBMP §404.03(a), dated March 28, 2019, as follows:

1. On March 28, 2019, Opposer served a Notice of Deposition Pursuant to Rule 30 of the Federal Rules of Civil Procedure and TBMP §404.03(a)(i), on Applicant. The Notice commanded Mr. Michael Lee to appear in Santa Monica, California, on Wednesday, April 24, 2019 at 10:00 a.m., for a deposition upon oral examination.

2. Mr. Michael Lee resides and works in Bellingham, Washington. Opposer has been informed of Mr. Lee's location, but nevertheless, has commanded that Mr. Lee appear for examination in Santa Monica.

3. Petitioner's Notice is thus for an oral examination outside Mr. Lee's judicial district. As stated in TBMP § 404.03(a), "the deposition of a natural person shall be taken in the Federal judicial district where the person resides or is regularly employed or at any place on which the parties agree in writing."

4. Mr. Lee has offered to take his deposition over the phone or to make other arrangements to answer discovery questions under oath.

5. In what Opposer deemed a "compromise", Opposer offered to take Mr. Lee's deposition in San Francisco, California. San Francisco is also outside of Mr. Lee's Federal judicial district.

6. Opposer's Notice must thus be quashed pursuant to TBMP § 404.03(a) because it commands that Mr. Lee's deposition be taken outside the Federal judicial district where he resides and is regularly employed.

PRAYER

WHEREFORE, Applicant prays that the Board:

1. Grant this Motion in its entirety;
2. Quash Opposer's Notice of Deposition;
3. Order that Mr. Michael Lee may only be deposed pursuant to TBMP § 404.03; and
4. Grant Applicant such other and further relief which it may be entitled.

Date: March 28, 2019

Respectfully submitted,
/MJ Lee/
Michael Lee
Managing Partner
JMM Lee Properties, LLC
(Applicant)
mlee@jmmlee.com

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2019 a copy of the foregoing APPLICANT'S MOTION TO QUASH OPPOSERS'S NOTICE OF DEPOSITION has been served on Opposer's counsel by forwarding said copy via email, to: Bobby A. Ghajar, Esq. and Marcus D. Peterson, Esq., Attorneys for Opposer:

Cooley LLP

Bobby A. Ghajar

Marcus D. Peterson

Served Via Email:

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/MJ Lee/

Michael J. Lee

Managing Partner

JMM Lee Properties, LLC