

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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RSC

June 22, 2021

Opposition No. 91263671

*Wolfgang Puck and Wolfgang Puck Licensing
LLC*

v.

Wolfgang Joop

Rebecca Stempien Coyle, Interlocutory Attorney:

On June 21, 2021, the Board issued an order addressing, inter alia, Applicant's motion to extend dates including for expert disclosures. The Board's Order noted Opposers' request during the preceding conference with the Board that Applicant be prohibited from utilizing Opposers' expert's report in the drafting of Applicant's expert's report, and the Order prohibited Applicant from sharing Opposers' expert report with his own expert in advance of service of Applicant's expert's report.

On June 22, 2021, the Board held a conference with the parties to address this portion of Board's Order. Participating in the conference were Robert Chapman, counsel for Opposers and Julie Katz, counsel for Applicant. Interlocutory Attorney Rebecca Stempien Coyle participated on behalf of the Board. After the June 17, 2021, conference between the parties and the Board, but prior to the issuance of the Board's June 21, 2021 Order, Applicant shared Opposers' expert's report with Applicant's

expert, Mr. Neal. Opposers' counsel argued this was improper and sanctionable conduct inasmuch as during the June 17, 2021 conference the Board took Opposers' request to prohibit the use of their expert's report by Mr. Neal under advisement, and the sharing of Opposers' expert's report with Mr. Neal is prejudicial to Opposers. Applicant's counsel maintained that she did not understand, at the time of the June 17, 2021 conference, that the Board would be issuing an order regarding Opposers' request.

During the June 22, 2021 conference counsel for Applicant reiterated that Mr. Neal is not intended, at this time, as merely a rebuttal expert. Accordingly, the Board expects that Mr. Neal's expert report will not constitute an improper rebuttal or rely on Opposers' expert's report.

To that end, Applicant is ordered to instruct Mr. Neal to either **destroy or return** to Applicant's counsel all copies of Opposers' expert's report and accompanying exhibits, as well as any notes or other references to the report made by or provided to Mr. Neal. Applicant is further ordered to notify the Board **in writing** within **SEVEN DAYS of the date of this order** that Mr. Neal has complied with this requirement.

The Board noted that at this time any speculation as to how Mr. Neal may or may not use any information from Opposers' expert's report is simply that, speculation. Upon receipt of Mr. Neal's expert report Opposers may file a motion seeking relief if they have a factual and legal basis to do so.

Dates otherwise **remain as set** in the Board's June 21, 2021 Order.