

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

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Mailed: November 18, 2004

Opposition No. 91122000

AMAZON.COM, INC.

v.

VON ERIC LERNER KALAYDJIAN

Albert Zervas, Interlocutory Attorney

On May 5, 2004, the Board extended the time for applicant to file an answer to the notice of opposition.

On June 2, 2004, applicant filed a communication titled "Response to Notice of Opposition." It is presumed that this communication is intended as an answer to the notice of opposition. A reading of this informal "answer" reveals, however, that it fails to properly respond to the notice of opposition as required by Rule 8(b) of the Federal Rules of Civil Procedure, made applicable to this proceeding by Trademark Rule 2.116(a).

Fed. R. Civ. P. 8(b) provides, in part:

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and

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this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.

Opposer's notice of opposition is the initial "pleading" in this case. Applicant, if he wishes to defend this case, must file a responsive pleading, i.e., an answer. The answer must be directly responsive to the notice of opposition; it should not be used as an opportunity for applicant to present evidence or arguments in the nature of a brief on the case.

The notice of opposition filed by opposer herein consists of a number of paragraphs containing one or more allegations of fact. In accordance with Fed. R. Civ. P. 8(b) it is incumbent on applicant to respond to each allegation, using correspondingly numbered paragraphs, by either admitting the truth of the allegation or denying that the allegation is true. If applicant is without sufficient knowledge or information on which to form a belief as to the truth or falsity of a particular allegation, then applicant may say so without risk; such a response is considered to have the same effect as a denial.

The above-referenced rules on filing a responsive pleading are set forth in Rule 8(b) of the Federal Rules of Civil Procedure. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and

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Trademark Office, and many of the Federal Rules of Civil Procedure govern the conduct of this opposition proceeding.

In view of the foregoing, applicant is allowed until **thirty** days from the mailing date of this order in which to file an answer herein which complies with Fed. R. Civ. P. 8.

Discovery and testimony periods are reset as indicated below. IN EACH INSTANCE, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party WITHIN THIRTY DAYS after completion of the taking of testimony. Trademark Rule 2.125.

DISCOVERY TO CLOSE: January 30, 2005

30-day testimony period for party
in position of plaintiff to close: April 30, 2005

30-day testimony period for party
in position of defendant to close: June 29, 2005

15-day rebuttal testimony period
to close: August 13, 2005

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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