UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: August 13, 2002

Opposition No. **91122816**

RUSH MEDIA LLC

v.

KERRY COLIN KEANE

David Mermelstein, Attorney:

On February 7, 2002, this proceeding was suspended for six months to allow the parties to continue their settlement discussions. Nothing further having been heard from the parties, proceedings herein are RESUMED to the limited extent set out below.

As noted in the February 7 order, a number of issues related to the identity of the opposer(s) remain unresolved. Accordingly, opposer is allowed until THIRTY DAYS from the mailing date of this order in which to respond to the following issues:[1]

(1) Who is the opposer in this proceeding? Mr. Simmons is the only named opposer, but many of the asserted marks appear to be owned and used by the separate legal entities also referenced in the pleading.

[1] Applicant may file a response, if desired, no later than fifteen days from the service date of opposer's response to this order (plus any additional time allowed under Trademark Rule 2.119(c)).

(2) Inasmuch as the extension of time to oppose was filed solely in the name of DJR Holdings, LLC, is the notice of opposition by Mr. Simmons untimely because of lack of privity? Likewise, to the extent other identified entities, namely, Rush Communications, Inc., Rush Media, LLC, and Rush Associated Labels, Inc., were intended to be joint opposers, is opposition by each of them untimely because of lack of privity?

(3) If there is more than one opposer that can show privity with the potential opposer, an opposition fee (in this case, $600.00) must be submitted for each opposer.

(4) If Rush Media, LLC is not a proper opposer in this proceeding, applicant may be required to bring its counterclaim as a separate cancellation proceeding or move to join Rush Media, LLC as a party.

If opposer fails to timely respond to this order, the Board may enter an order requiring opposer to show why this proceeding should not be dismissed due to opposer's apparent loss of interest.

This proceeding remains otherwise SUSPENDED.

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