

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

Baxley

Mailed: April 28, 2004

Opposition No. **91152044**

MONSTER CABLE PRODUCTS, INC.

v.

JOEL BARRY SHAMITOFF

**Andrew P. Baxley, Interlocutory Attorney:**

The following is in clarification of the Board's April 20, 2004 order. The Board notes that, in its February 23, 2004 order wherein it denied applicant's motion for summary judgment, it allowed opposer until thirty days therefrom to file an amended pleading which set forth an acceptable claim of dilution. The amended notice of opposition that opposer filed on March 15, 2004 set forth an acceptable claim of dilution, but also sought to add eight additional registrations in support of its claim under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d).

Although opposer was authorized by the February 23, 2004 order to amend its pleading to set forth an acceptable dilution claim, that order did not authorize opposer to add the additional registrations to its Section 2(d) claim. Rather, opposer may only amend its pleading to rely upon those registrations with applicant's consent or upon motion.

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See Fed. R. Civ. P. 15(a). Accordingly, the proposed amended pleading is unacceptable.

Proceedings herein otherwise remain suspended in accordance with the April 28, 2004 order. Opposer's time to submit an amended pleading that complies with the February 23, 2004 order will be reset where proceedings herein are resumed.