

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

Mailed: July 22, 2004

Opposition No. **91160262**

UMAC, Inc.

v.

Upsidedown Software Inc.

**Frances S. Wolfson, Interlocutory Attorney:**

On June 4, 2004, applicant filed a motion to strike the notice of opposition in this case. Office records indicate no response thereto. When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded. See Trademark Rule 2.127(a), and TBMP §502.04 (2d ed. June 2003).

In this case, opposer's attorney has failed to sign the notice of opposition. Trademark Rule 2.119(e) provides that an unsigned document will not be refused consideration if a signed copy is submitted to the Board within the time limit set in the notification of this defect by the Board. In view thereof, applicant's motion shall be treated as conceded and the notice of opposition stricken if, within TEN DAYS from the mailing date of this order, opposer fails to cure the defect in the original notice of opposition by

submitting a fully-executed copy thereof, signed by Simor L. Moskowitz.<sup>1</sup> See Trademark Rule 2.119(e).

Applicant is allowed until FORTY DAYS from the filing date of the corrected notice of opposition within which to file an answer or otherwise respond to the corrected notice of opposition.

Trial dates, including the closing date for discovery, are reset as indicated below.

DISCOVERY PERIOD TO CLOSE:	<b>December 1, 2004</b>
30-day testimony period for party in the position of plaintiff to close:	<b>March 1, 2005</b>
30-day testimony period for party in the position of the defendant to close:	<b>April 30, 2005</b>
15-day rebuttal period for party in the position of the plaintiff to close:	<b>June 14, 2005</b>

**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.

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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<sup>1</sup> The corrected notice of opposition must be identical to that originally filed in all respects, except that it must bear applicant's attorney's own signature.

## New Developments at the Trademark Trial and Appeal Board

- Files of TTAB proceedings can now be examined using TTAB Vue, accessible at <http://ttabvue.uspto.gov>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format. Papers filed prior to January 2003 may not have been scanned. Unscanned papers remain available for public access at the TTAB. For further information on file access, call the TTAB at (703) 308-9330.
- Parties should also be aware of recent changes in the rules affecting trademark matters, including the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003) ([www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf](http://www.uspto.gov/web/offices/com/sol/notices/68fr55748.pdf)); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003) ([www.uspto.gov/web/offices/com/sol/notices/68fr48286.pdf](http://www.uspto.gov/web/offices/com/sol/notices/68fr48286.pdf)).
- The second edition (June 2003) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at [www.uspto.gov/web/offices/dcom/ttab/tbmp/](http://www.uspto.gov/web/offices/dcom/ttab/tbmp/).