

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

Mailed: September 29, 2006

Opposition No. 91162330

L.C. LICENSING, INC

v.

BERMAN, CARY

**Thomas W. Wellington,  
Interlocutory Attorney:**

This proceeding now comes up on the following opposer's motion (filed September 8, 2006) for leave to file an amended notice of opposition.<sup>1</sup> Opposer attached a copy of its proposed amended notice of opposition.

On September 30, 2006, at 10:00 am eastern time, the Board convened a telephone conference between Kieran Doyle, Esq., counsel for opposer, and Cary Berman, pro se applicant, and the above-referenced Board attorney responsible for resolving interlocutory matters in this case.

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<sup>1</sup> On the same date, opposer also filed a motion to suspend the opposition proceeding pending disposition of the motion for leave to file an amended notice of opposition.

During the telephone conference, applicant acknowledged that he did file a written response to opposer's motion, but argued against granting the motion.

Leave to amend a pleading shall be freely given when justice so requires. See Fed. R. Civ. P. 15(a). Accordingly, the Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires, unless entry of the proposed amendment would violate settled law or be prejudicial to the rights of the adverse party or parties. See TBMP § 507 (2d ed. rev. 2004) and authorities cited therein.

After consideration of both parties' arguments regarding opposer's motion to amend, we find that opposer has stated a claim that, if proven, would entitle it to the relief sought. Further, applicant's rights will not be prejudiced by the amended complaint. Thus, the motion to amend is granted and opposer's amended notice of opposition (filed September 8, 2006) is the operative complaint in this case.

Applicant is allowed thirty (30) days from the mailing date of this order to file an answer to the notice of opposition, as amended.

Trial dates are reset as follows<sup>2</sup>:

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<sup>2</sup> Opposer's motion to suspend the proceeding is granted as conceded and well-taken to the extent that proceedings are construed as having been

THE PERIOD FOR DISCOVERY TO CLOSE: CLOSED

Thirty (30) day testimony period for party in  
position of plaintiff to close: **12/31/06**

Thirty (30) day testimony period for party  
in position of defendant to close: **3/1/07**

Fifteen (15) day rebuttal testimony period  
to close: **4/15/07**

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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suspended as of the date the motion was filed and trial dates are rescheduled herein. Trademark Rule 2.127(a).