

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

Baxley

Mailed: August 17, 2005

Opposition No. **91163127**

Danware Data A/S

v.

Netopsystems AG

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

Applicant filed communications with the Board on December 27, 2004 and May 10, 2005. It is presumed that these communications are intended as an answer and amended answer to the notice of opposition. A reading of these filings reveals, however, that they are argumentative and more in the nature of briefs on the case than responsive pleadings to the notice of opposition. As such, they do not comply with Rule 8(b) of the Federal Rules of Civil Procedure, made applicable 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 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.

The notice of opposition filed by opposer herein consists of twelve paragraphs setting forth the basis of opposer's claim of damage. In accordance with Fed. R. Civ. P. 8(b), it is incumbent on applicant to answer the notice of opposition by simply admitting or denying the allegations contained in each paragraph. If applicant is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, it should so state and this will have the effect of a denial.

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.

While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

The Trademark Rules of Practice are available online at <http://www.uspto.gov/web/offices/tac/tmlaw2.html>. The Trademark Board Manual of Procedure is available online at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/>.

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.

Discovery and trial dates are reset as follows.

DISCOVERY PERIOD TO CLOSE: **11/18/05**

Plaintiff's 30-day testimony period to close: **02/16/06**

Defendant's 30-day testimony period to close: **04/17/06**

15-day rebuttal testimony period to close: **06/01/06**

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.