

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

Mailed: July 2, 2010

Opposition No. 91176065

Lenovo (Singapore) Pte. Ltd

v.

H. Co. Computer Products

George C. Pologeorgis, Interlocutory Attorney:

Applicant/counterclaim plaintiff's consented motion (filed June 30, 2010) to extend discovery and trial dates by ninety days is granted. Trademark Rule 2.127(a).

Accordingly, discovery and trial dates are reset as follows:

THE PERIOD FOR DISCOVERY TO CLOSE:	9/29/2010
Testimony period for plaintiff in the opposition to close: (opening thirty days prior thereto)	12/28/2010
Testimony period for defendant in the opposition and as plaintiff in the counterclaim to close: (opening thirty days prior thereto)	2/26/2011
Testimony period for defendant in the counterclaim and its rebuttal testimony as plaintiff in the opposition to close: (opening thirty days prior thereto)	4/27/2011

Rebuttal testimony period for plaintiff in the counterclaim to close: **6/11/2011**
(opening fifteen days prior thereto)

Briefs shall be due as follows:
[See Trademark rule 2.128(a)(2)].

Brief for plaintiff in the opposition shall be due: **8/10/2011**

Brief for defendant in the opposition and as plaintiff in the counterclaim shall be due: **9/9/2011**

Brief for defendant in the counterclaim and its reply brief (if any) as plaintiff in the opposition shall be due: **10/9/2011**

Reply brief (if any) for plaintiff in the counterclaim shall be due: **10/24/2011**

As a final matter, by order dated March 31, 2010, the Board granted opposer's motion to dismiss applicant's counterclaim of fraud to the extent that applicant was allowed thirty days from the Board's order in which to file and serve an amended pleading properly alleging fraud, failing which the existing allegations regarding fraud in the counterclaim would be dismissed with prejudice.

The record does not demonstrate that applicant has filed an amended counterclaim which properly alleges fraud within the time period allowed by the Board. In view thereof, applicant's counterclaim for fraud is dismissed with prejudice. Applicant's counterclaim will proceed

solely on the asserted claim of priority and likelihood of confusion.

Furthermore, it has come to the attention of the Board that opposer/counterclaim defendant has permitted its pleaded Registration No. 2678462 for the mark THINKSTATION, respectively, which are subject to applicant's counterclaim to be cancelled under Section 8 of the Trademark Act.

In view thereof, opposer/counterclaim defendant is allowed until twenty days from the mailing date of this order to show cause why such cancellation should not be deemed to be the equivalent of a cancellation by request of opposer/counterclaim defendant without the consent of the adverse party, and should not result in entry of judgment against opposer/counterclaim defendant as provided by Trademark Rule 2.134(a). In the absence of a showing of good and sufficient cause, judgment may be entered against opposer/counterclaim defendant in regard to the above-identified registration. See Trademark Rule 2.134(b).

If, in response to this order, opposer/counterclaim defendant submits a showing that its failure to file a Section 8 affidavit was the result of inadvertence or mistake, judgment will not be entered against it. In that case, applicant/counterclaim plaintiff will be given time in which to elect whether it wishes to go forward with its counterclaim with regard to the cancelled registration,

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i.e., Registration No. 2678462, or to have the counterclaim dismissed without prejudice as moot as to the aforementioned registration. See *C. H. Guenther & Son Inc. v. Whitewing Ranch Co.*, 8 USPQ2d 1450 (TTAB 1988) and TBMP § 602.02(b).