

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

Mailed: March 24, 2011

Opposition No. 91177036

Nationstar Mortgage LLC

v.

Mujahid Ahmad

**Robert H. Coggins,
Interlocutory Attorney:**

This case now comes up on opposer's motion (filed October 19, 2010) "for leave to present expert testimony in rebuttal period." On March 21, 2011, at 11:00 a.m. EDT, the Board convened a telephone conference to determine the motion. Participating in the conference were Bruce A. McDonald, counsel for opposer; Patrick I. Rea, counsel for applicant; and the above-referenced Board attorney responsible for resolving interlocutory matters in this case.

The Board considered comments made by both parties during the telephone conference, as well as the supporting motion and briefs.¹ The Board presumes familiarity with the issues, and for the sake of efficiency this order does not summarize the parties' arguments raised in the motion, briefs, or during the

¹ The Board appreciates the good humor and professional courtesy of the parties during the conference.

telephone conference. Instead, this order outlines the decisions made by the Board.

Change of Correspondence Address

As an initial matter, the Board noted applicant's change of correspondence address (filed March 1, 2011). The new address has been entered into the Board's correspondence database.

Expert Rebuttal Testimony

Opposer's motion was granted solely on procedural grounds. In view thereof, opposer may proceed with the expert rebuttal testimony.

The Board made no determination whether the substance of the prospective expert rebuttal testimony was proper as rebuttal testimony or might appropriately have been introduced during opposer's case-in-chief. A determination on the substance of the prospective expert rebuttal is more appropriate at final hearing. Accordingly, if opposer proceeds with its expert rebuttal testimony, applicant may make an appropriate objection during the deposition and then renew the objection in his brief on the case. See TBMP §§ 707.03(c) and 707.04 (2d ed. rev. 2004).

The parties were reminded that this proceeding was instituted before the November 1, 2007, effective date of amendment for various rules governing the requirements of expert disclosure. See "Miscellaneous Changes to Trademark

Trial and Appeal Board Rules," 72 Fed. Reg. 42,242 (August 1, 2007). In view thereof, this opposition proceeding is governed by the rules in effect for cases instituted before November 1, 2007, but as partially amended effective August 31, 2007. See *Id.* The parties were also reminded that the Board's rules of practice do not make any provision for rebuttal testimony by the defendant. *Osage Oil & Transportation Co. v. Standard Oil Co.*, 226 USPQ 905, 907 n.10 (TTAB 1985).

Trial Schedule

The Board and parties discussed the timing of opposer's expert rebuttal testimony period. After consideration of the parties' comments, proceedings were resumed and opposer's rebuttal period was reset for the sole purpose of allowing opposer time in which to conduct its expert rebuttal testimony. Trial periods remain closed for all other purposes. Dates were reset as follows.

30-day testimony period for party in position of plaintiff to close:	Closed
30-day testimony period for party in position of defendant to close:	Closed
15-day limited rebuttal testimony period for plaintiff to close:	6/20/2011

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

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the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b) on the following schedule.

Plaintiff's main brief due: 8/19/2011

Defendant's main brief, if filed, due: 9/19/2011

Plaintiff's rebuttal brief, if filed,
due: 10/4/11

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.