

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

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Mailed: March 18, 2008

Opposition No. 91181022

American Deli Plus, Inc.

v.

Clean Pass of Atlanta

**Linda Skoro, Interlocutory Attorney**

Applicant filed a communication on March 1, 2008.<sup>1</sup> It is presumed that this communication is intended as an answer to the notice of opposition. A reading of this informal "answer" reveals, however, that it is argumentative and more in the nature of a brief on the case than a responsive pleading to the notice of opposition. As such, it does not comply with Rule 8(b) of the Federal Rules of Civil Procedure, made applicable this proceeding by Trademark Rule 2.116(a).

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<sup>1</sup> Applicant's communication does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119 (which is more fully explained later in this order). In order to expedite this matter, a copy of said communication is forwarded herewith to counsel for opposer, but strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board.

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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 16 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 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.

While applicant is being provided information on the filing of a formal answer, answer was due in this case on February 11, 2008. Thus, applicant's answer, albeit informal, is untimely, having been received by the Board on February 29, 2008.

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In view of the foregoing, applicant is allowed until April 27, 2008, in which to file a formal answer herein, which complies with Fed. R. Civ. P. 8., together with an explanation to establish good cause for the failure to file a timely answer.

As noted earlier in this order, Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which applicant may subsequently file in this proceeding, including its answer to the notice of opposition, must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

It should also be noted that 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

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an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

It is recommended that applicant obtain a copy of the latest edition of Title 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice. These rules may be viewed at the USPTO's trademarks page:

<http://www.uspto.gov/main/trademarks.htm>. The Board's main webpage

[\(http://www.uspto.gov/web/offices/dcom/ttab/\)](http://www.uspto.gov/web/offices/dcom/ttab/) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).<sup>2</sup>

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.

Conferencing, disclosure, discovery and trial dates are reset as follows:

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<sup>2</sup> Applicant may also obtain a hard copy of the latest edition of Title 37 of the Code of Federal Regulations available for a fee from the U.S. Government Printing Office on the World Wide Web at <http://bookstore.gpo.gov>.

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Time to Answer	4/27/08
Deadline for Discovery Conference	5/27/08
Discovery Opens	5/27/08
Initial Disclosures Due	6/26/08
Expert Disclosures Due	10/24/08
Discovery Closes	11/23/08
Plaintiff's Pretrial Disclosures	1/7/09
Plaintiff's 30-day Trial Period Ends	2/21/09
Defendant's Pretrial Disclosures	3/8/09
Defendant's 30-day Trial Period Ends	4/22/09
Plaintiff's Rebuttal Disclosures	5/7/09
Plaintiff's 15-day Rebuttal Period Ends	6/6/09

**Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b).** An oral hearing after briefing is not required but will be scheduled upon request of any party, as provided by Trademark Rule 2.129.

The Board also notes that in correspondent with the Board, there appears to have about three different addresses for applicant. The Board has been informed by Applicant that the address for applicant is as follows:

Clean Pass of Atlanta  
1228 Christiana Crossing  
Lawrenceville, GA 30043

If this is incorrect, applicant is to inform the Board and opposer immediately of its correct address.