

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

MBA/vw

Mailed: May 24, 2010

Opposition No. 91183905

Google Inc.

v.

Eric Watson

**Michael B. Adlin, Interlocutory Attorney:**

On March 23, 2010 the Board allowed applicant 30 days to appoint new counsel or to inform the Board that applicant wishes to represent himself. On April 23, 2010, applicant filed a communication informing the Board that he will represent himself in this proceeding.<sup>1</sup> In view thereof, the Board's records have been updated to reflect Eric Watson as the new correspondent.

Applicant's communication is not accompanied by a certificate of service on opposer, as required by Trademark Rule 2.119(a). To expedite matters, a copy of the paper is included with opposer's copy of 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,

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<sup>1</sup> The filing is not construed as a motion or anything other than applicant's decision to represent himself.

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 must show proof of service.** This written statement should take the form of a "certificate of service" and should read as follows:

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon opposer by forwarding said copy, via first class mail, postage prepaid to: [insert name and address].

The certificate of service must be signed and dated.

Each party is reminded of its obligation to send a service copy of any paper filed herein to the adverse party, and to include proof of service when the paper is filed with the Board. In the future any papers filed without a certificate of service may not be considered by the Board. Strict compliance with Trademark Rule 2.119 is required by applicant in all future papers filed with the Board.

Applicant is allowed until **thirty days** from the mailing date of this order to respond to opposer's motion for sanctions on the merits. If applicant fails to respond within the time provided, opposer's motion may be granted as conceded. Trademark Rule 2.127(a).

Proceedings remain suspended pending a decision on opposer's motion for sanctions.

**NATURE OF BOARD PROCEEDINGS**

Applicant is advised that an *inter partes* proceeding before the Board is similar to a civil action in a Federal district court. There are pleadings, a wide range of possible motions; discovery (a party's use of discovery depositions, interrogatories, requests for production of documents and things, and requests for admission to ascertain the facts underlying its adversary's case), a trial, and briefs, followed by a decision on the case. The Board does not preside at the taking of testimony. Rather, all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No paper, document, or exhibit will be considered as evidence in the case unless it has been introduced in evidence in accordance with the applicable rules.

**OPTION OF E-MAIL SERVICE**

The parties may agree to the email service option now available under Trademark Rule 2.119(b)(6) ("Electronic transmission when mutually agreed upon by the parties.").<sup>2</sup> Should the parties decide to continue using traditional service options,

the parties may consider agreeing at least to courtesy email notification when any paper is served.

**THE BOARD'S STANDARDIZED PROTECTIVE ORDER IS IN PLACE**

The Board's standard protective order is in place in this case governing the exchange of confidential and proprietary information and materials. The parties may substitute a stipulated protective agreement (signed by both parties). However, the Board will not become involved in a dispute over any substitution in view of the existence of the Board's standardized protective order.

**REPRESENTATION**

The Board notes applicant is representing himself. Applicant may do so. However, it should also be noted that while Patent and Trademark Rule 10.14 permits any person to represent himself, 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. In addition, as the impartial decision maker, the Board may not provide legal advice, though may provide information as to procedure.

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<sup>2</sup> The additional five days available under Trademark Rule 2.119(c) for traditional service modes (e.g., First Class Mail) is not available for email service.

**ELECTRONIC RESOURCES**

All parties may refer to the Trademark Trial and Appeal Board Manual of Procedure (TBMP) and the Trademark Rules of Practice, both available on the USPTO website, [www.uspto.gov](http://www.uspto.gov). The TTAB homepage provides electronic access to the Board's standardized protective order, a chart of the new rules and the text of the new rules (effective August 31, 2007 and November 1, 2007), and answers to frequently asked questions. Other useful databases include the ESTTA filing system<sup>3</sup> for Board filings and TTABVUE for status and prosecution history. The Board's records are public records. Thus, applicant may use the TTABVUE database to view other cases to get an idea of the course of Board proceedings.

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<sup>3</sup> Use of electronic filing with ESTTA, available through the USPTO website, is strongly encouraged. This electronic file system operates in real time. The filing party is also provided with a confirmation number that the filing has been received.

A party may also use first class mail. Correspondence required to be filed in the Office within a set period of time will be considered as being timely filed on the date of deposit in the mail if accompanied by a certificate of mailing.

**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to:

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

The certificate of mailing must be signed and dated. The actual date of receipt by the Office will be used for all other purposes, including electronically filed documents.

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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.

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