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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184090
Party	Defendant Arastra, Inc.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Aastra Technologies Limited.

Opposer,

Opposition No. 91184090

Mark: ARASTRA

Serial No. 77319532

v.

Arastra, Inc.,

Applicant.

MOTION TO STRIKE IRRELEVANT ALLEGATIONS IN NOTICE OF OPPOSITION

Background

This is an opposition proceeding based on an alleged likelihood of confusion between the mark ARASTRA with variations of the mark Aastra. Applicant is Arastra, Inc. (“Applicant”). Opposer is Aastra Technologies Limited (“Opposer”).

Applicant is concurrently filing its Answer and hereby moves to strike pursuant to F.R.C.P. 12(f) certain irrelevant allegations and irrelevant exhibits of the Notice of Opposition.

Allegations to Be Stricken

Applicant hereby moves to strike the following paragraphs in the Notice of Opposition:

Paragraph 15

Paragraph 16

Paragraph 17

Paragraph 18

Paragraph 19

Paragraph 20

Paragraph 21

Paragraph 22

Applicant (“Applicant”) hereby further moves to strike the following Exhibits to the Notice of Opposition:

Exhibit 6

Exhibit 7

Exhibit 8

Exhibit 9

Exhibit 10

Exhibit 11

Exhibit 12

Exhibit 13

General Principle Underlying F.R.C.P. 12(f)

F. R. C. P. 12(f) provides, in relevant part, for striking from a pleading any redundant, immaterial, impertinent or scandalous matter. Motions to strike are not favored and matter will not be stricken unless it clearly has no bearing upon the issues under litigation. *Harsco Corporation vs. Electrical Sciences, Inc.*, 9 U.S.P.Q.2D 1570 (TTAB 1988) However, when allegations obviously do not belong in a pleading because they are immaterial or impertinent, it behooves a party, like Applicant in this proceeding,

to move to strike those allegations. Irrelevant or impertinent allegations do not assist in framing the issues as the case proceeds, and do not assist the trier of fact at the time of trial. Irrelevant allegations could require a party to respond to irrelevant or impermissible discovery demands.

All of the allegations in the paragraphs above and all of the purported “evidence” in the Exhibits above that Applicant by this present motion moves the Board to strike relate to alleged foreign trademark rights of Opposer.

Foreign Registrations Have No Bearing to the Present Proceeding

It is well settled that foreign use of a mark creates no rights in the US, and that use or promotion of a mark in a foreign country, even a neighboring country like Canada, is immaterial to ownership or registration in the US. *See, e.g., Johnson & Johnson v. Salve S.A.*, 184 USPQ 375, 376 (TTAB 1974) and *Oland’s Breweries Ltd. v. Miller Brewing Co.*, 189 USP 481, 489 n.7 (TTAB 1975), *aff’d Miller Brewing Co. v. Oland’s Breweries*, 548 F.2d 349 (CCPA 1976)

Conclusion

Accordingly, in the interests of fairness and in the interests of judicial economy, those paragraphs enumerated above and those Exhibits enumerated above, should be stricken from the Notice of Opposition.

Respectfully submitted,

Dated: June 23, 2008

By: _____/rsgordet/_____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Applicant's Answer to Notice of Opposition was mailed first-class mail, postage prepaid, to Julie A. Hyland, Corporate Counsel, Aastra Technologies Limited, 2811 Internet Blvd., Frisco, TX 75034 on June 23, 2008.

Dated: June 23, 2008

By: _____/rsgordet/_____
Roy S. Gordet