

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

vb

Mailed: September 10, 2008

Opposition No. 91185884

Dating DNA, LLC

v.

Imagini Holdings Ltd

**M. Catherine Faint,
Interlocutory Attorney:**

Inasmuch as opposer's motion (filed August 29, 2008) to amend the notice of opposition was filed before the filing of a responsive pleading, and has not been amended to add the goods or services opposed, the motion is granted. See Fed. R. Civ. P. 15(a); and Trademark Rule 2.107(a).

The Board notes that opposer failed to include proof of service of a copy of the amended notice on applicant, as required by Trademark Rule 2.119(a). A copy of opposer's amended notice of opposition is enclosed for applicant.¹ 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.

¹ Applicant may view an electronic version of the amended notice of opposition at <http://ttabvue.uspto.gov/ttabvue/v?pno=91185884&pty=OPP&eno=4>.

Applicant is allowed until **thirty days** from the mailing date of this order in which to file an answer to the amended notice of opposition.

Conferencing, disclosure, discovery and testimony periods remain as previously set in the Board's institution order.

Pro Se Information

Opposer is representing itself. Opposer is reminded that it will be expected to comply with all applicable rules and Board practices during the remainder of this case. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure govern the conduct of this opposition proceeding. Opposer should note that Patent and Trademark Rule 10.14 permits any person or legal entity to represent itself in a Board proceeding, though it is generally advisable for those unfamiliar with the applicable rules to secure the services of an attorney familiar with such matters.

The Patent and Trademark Office cannot aid in the selection of an attorney. In addition, the Board may not provide legal advice to the parties, although the Board may provide information as to procedures.

If a party does not retain counsel, then it will have to familiarize itself with the rules governing this

proceeding. The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). The CFR and the Federal Rules of Civil Procedure, are likely to be found at most law libraries, and may be available at some public libraries. Finally, the Board's manual of procedure will be helpful.

On the World Wide Web, the parties may access most of these materials by logging onto <http://www.uspto.gov/> and making the connection to trademark materials.

Opposer must pay particular attention to Trademark Rule 2.119. That rule requires a party filing any paper with the Board during the course of a proceeding to serve a copy on its adversary, unless the adversary is represented by counsel, in which case, the copy must be served on the adversary's counsel. The party filing the paper must include "proof of service" of the copy. "Proof of service" usually consists of a signed, dated statement attesting to the following matters: (1) the nature of the paper being served; (2) the method of service (e.g., first class mail); (3) the person being served and the address used to effect service; and (4) the date of service.

The parties should note that any paper required to be filed herein must be received by the Patent and Trademark Office by the due date, unless one of the filing procedures set forth in Trademark Rules 2.197 or 2.198 is utilized.

Files of TTAB proceedings can now be examined using TTABVue, accessible at <http://ttabvue.uspto.gov>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format.

The first revision of the second edition (March 2004) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at www.uspto.gov/web/offices/dcom/ttab/tbmp/.

The Board is an administrative tribunal empowered to determine only the right to register. See TBMP §102.01 (2d ed. rev. 2004). A Board inter partes proceeding, such as this case, 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, document requests, 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, are then filed with the Board. No paper, document, or exhibit will be considered as evidence in the case unless it

Opposition No. 91185884

has been introduced in evidence in accordance with the applicable rules.
