UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Mailed: July 10, 2014

Opposition No. 91185409
Opposition No. 91186562
("Parent Case")
Opposition No. 91186653
Opposition No. 91196707

Franklin Loufrani

v.

Harvey Ball Smile Ltd.

Benjamin U. Okeke, Interlocutory Attorney:

The parties' stipulation dated February 19, 2014, to withdraw Opposition No. 91185409 and the involved counterclaim for cancellation; and opposer's response dated March 3, 2014, to the Board's show cause order for Opposition No. 91186653, are both noted.

Inadvertently Issued Registrations

It has come to the Board's attention that Trademark Registration No. 4514824 (application Serial No. 77347604) was inadvertently issued on April 15, 2014, and Trademark Registration Nos. 4481360, 4481361, and 4481362 (application Serial Nos. 77918773, 77918778, and 77918780), were inadvertently issued on February 11, 2014. The registrations issued inadvertently after the Board vacated its dismissal orders in Opposition Nos.

91196707 and 91186653, however, at the time the order issued, it was too late to prevent the applications from maturing to registration.

Accordingly, the electronic record of the above-identified applications will be referred to the Commissioner for Trademarks for appropriate action.[1]

The parties are advised, however, that the opposition proceeding will go forward on the schedule as set by this order below.

Show Cause Order in Opposition No. 91186653

In the consolidation order dated February 20, 2014, the Board issued an order allowing opposer time to show cause why the Board should not treat opposer's failure to file a brief in Opposition No. 91186653, as a concession of the case. *See* Trademark Rule 2.128(a)(3).

In response, opposer, states that it has not lost interest in this case; that it was awaiting a decision from the Board on the consolidation of multiple proceedings in the hopes that it would be permitted to handle all proceedings simultaneously.

Inasmuch as it is clear that opposer has not lost interest in this case, and because it is not the policy of the Board to enter judgment against a plaintiff for failure to file a main brief on the case when said plaintiff informs the Board that it seeks to have the case adjudicated on the merits, the Board's show cause order is hereby **DISCHARGED**. *See* TBMP §801.02(a) (2014).

[1] The Office of the Commissioner for Trademarks may issue an order cancelling the inadvertently issued registration and restoring the application to pendency, subject to the present opposition proceeding.

Withdrawal of Opposition No. 91185409

On February 19, 2014, the parties filed a stipulation to withdraw the notice of opposition and related counterclaim in Opposition No. 91185409 without prejudice. Accordingly, the opposition and counterclaim are **DISMISSED without prejudice**. *See* Trademark Rule 2.106(c).

In view of the withdrawal of Opposition No. 91185409, the remaining proceedings in the consolidated series, as captioned above, will continue and should be presented on the same record and briefs, with Opposition No. 91186562 now designated as the "parent" proceeding.

Trial dates are reset below as follows:

Defendant's 30-day Trial Period Ends	**8/10/2014**
Plaintiff's Rebuttal Disclosures	**8/25/2014**
Plaintiff's 15-day Rebuttal Period Ends	**9/24/2014**

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 the taking of testimony. Trademark Rule 2.l25.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.l29.