

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

Am

Mailed: September 2, 2009

Opposition No. 91188256

The Susan G. Komen Breast
Cancer Foundation, Inc.

v.

Andrew J. Covault

Frances S. Wolfson, Interlocutory Attorney:

The Board granted applicant's request (filed June 15, 2009) for an extension of time, making applicant's answer due by August 14, 2009. Applicant filed its answer on August 18, 2009, two days late.

In view thereof, applicant is allowed twenty days from the mailing date of this order to advise the Board as to why applicant filed its answer late.

The Board notes that applicant failed to include proof of service of a copy of the answer on opposer, as required by Trademark Rule 2.119(a). To expedite matters, a copy of the answer is included with opposer's copy of this order. 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.

The Board also notes that applicant has not complied with the formatting rules required for submission of documents to the Board. Below are general guidelines to assist applicant.

General Information for Applicant

Applicant should note that although Patent and Trademark Rule 10.14 permits any person to represent itself in a Board proceeding, it is generally advisable for a person unfamiliar with the above-referenced rules to secure the services of an attorney familiar with such matters. The Office cannot aid in the selection of an attorney. If applicant does not retain counsel, applicant must familiarize itself with the rules governing this proceeding. Strict compliance with all applicable rules and Board practices during the proceeding of an *inter partes* case before the Board is expected of all parties, whether or not represented by counsel.

One rule that applicant must pay particular attention to, as noted above, is **Trademark Rule 2.119**. That rule requires that a party filing any paper with the Board during the course of a proceeding must 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. With the paper that is filed with the Board, 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.

Applicant should note that it is responsible for ensuring that the Board has its current correspondence address. If a party fails to notify the Board of a change of address, with the result that the Board is unable to serve correspondence on the party, default judgment may be entered against the party. See TBMP § 117.07 (2d ed. rev. 2004).

Applicant should note that any paper it is required to file with the Board should not take the form of a letter; proper format should be utilized. The form of submissions is governed by Trademark Rule 2.126. See also TBMP § 106.03 (2d ed. rev. 2004). Also, applicant should note that any paper it is required to file 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 and 2.198 is utilized. These rules are in Part Two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). There are other rules in Part One of Title 37, relevant to filing of papers, meeting due dates, etc., that

are also applicable to this case. 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. The latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, is available for a fee from U.S. Government Printing Office on the World Wide Web at <http://bookstore.gpo.gov>.

Applicant may access some of the materials referred to above by logging onto <http://www.uspto.gov> and making the connection to trademark materials. The files of this Board proceeding can 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.)

Finally, the Board's manual of procedure will be helpful. 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/.

Scheduling

Proceedings are suspended pending applicant's response to this order.