

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

Lykos

Mailed: June 8, 2010

Opposition No. 91188973

Gapardis Health and Beauty,  
Inc.

v.

Gulam Nasser

**Angela Lykos, Interlocutory Attorney**

On February 5, 2010, applicant filed, with opposer's consent, a motion to amend his answer to add a counterclaim. Applicant filed concurrently therewith an amended pleading. On February 10, 2010, the Board acknowledged applicant's motion and stated that the counterclaim would not be considered because it was not accompanied by the requisite fee.

On February 19, 2010, applicant filed a request for reconsideration of the Board's February 10, 2010 order, arguing that he was merely requesting "permission" to add a counterclaim, and that the filing of the fee would have been premature without the Board's prior approval.

Requests for reconsideration, as provided in Trademark Rule 2.127(b), provide a party with an opportunity to point out any error that the Board may have made in its initial

consideration of a matter. Such a motion may not properly be used to introduce additional evidence, nor should it be devoted simply to a reargument of the points presented in a brief on the original motion. A request for reconsideration of a Board order must be filed within one month from issuance thereof. Trademark Rule 2.127(b).

The Board finds that it made no error in its prior determination.

As stated in TBMP Section 313.02 (2d ed. rev. 2004), "[i]f no fee is submitted with the counterclaim, . . . the counterclaim will be rejected." Thus, upon filing of the requisite fee, the Board will consider applicant's consented motion to add a counterclaim.<sup>1</sup>

Dates remain as previously set.

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<sup>1</sup>In light of the Board's ruling, the Board defers consideration of opposer's motion (filed March 2, 2010) to strike the affirmative defense set forth in Paragraph No. 9 of applicant's proposed amended pleading, and will not consider opposer's answer (filed March 2, 2010) to the remaining affirmative defenses set forth in applicant's amended pleading until the requisite fee is submitted.