

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

nmt

Mailed: September 23, 2010

Opposition No. 91188973

Gapardis Health and Beauty,
Inc.

v.

Gulam Nasser

Cheryl S. Goodman, Interlocutory Attorney:

On June 8, 2010, the Board denied applicant's request for reconsideration of the Board's February 10, 2010 order which denied applicant's consented motion to amend its answer to add affirmative defenses and a counterclaim for failure to submit the proper fee for the counterclaim. Thus, the amended answer was not accepted. On March 2, 2010, opposer filed a motion to strike one of the affirmative defenses in the amended answer and a separate filing where it denied¹ the affirmative defenses asserted in the amended answer.

On March 22, 2010, applicant paid the appropriate fee for the counterclaim to cancel opposer's pleaded registration Reg. No. 2934710. Accordingly, applicant has perfected the counterclaim. In view thereof, the amended answer and

¹Such a filing denying the affirmative defenses was not necessary under Fed. R. Civ. P. 7.

counterclaim are accepted retroactive to the payment date of the counterclaim fee.

Opposer and counterclaim defendant, Gapardis Health and Beauty, Inc., is allowed until **October 21, 2010** to file an answer to the counterclaim. See Trademark Rules 2.106(b)(2)(iii) and 2.121(b)(2).

Furthermore, opposer's September 16, 2010 request to grant its motion to strike applicant's affirmative defense no. 9 is noted. However, since the first amended answer was not accepted at the time of filing the motion to strike, such a motion was premature. Nonetheless, the Board considers the recent filing as a renewed motion to strike. In view thereof, applicant is also allowed until **October 21, 2010** to file its response to opposer's motion to strike.

In accordance with the Trademark Rules of Practice, conferencing, disclosure, discovery and testimony period dates are reset as indicated below. 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 2.125.

Answer to Counterclaim Due	October 21, 2010
Deadline for Discovery Conference	November 20, 2010
Discovery Opens	November 20, 2010
Initial Disclosures Due	December 20, 2010

Expert Disclosures Due	April 19, 2011
Discovery Closes	May 19, 2011
Plaintiff's Pretrial Disclosures	July 3, 2011
30-day testimony period for plaintiff's testimony to close	August 17, 2011
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	September 1, 2011
30-day testimony period for defendant and plaintiff in the counterclaim to close	October 16, 2011
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	October 31, 2011
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	December 15, 2011
Counterclaim Plaintiff's Rebuttal Disclosures Due	December 30, 2011
15-day rebuttal period for plaintiff in the counterclaim to close	January 29, 2012
Brief for plaintiff due	March 29, 2012
Brief for defendant and plaintiff in the counterclaim due	April 28, 2012
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	May 28, 2012
Reply brief, if any, for plaintiff in the counterclaim due	June 12, 2012

If the parties stipulate to any extension of these dates, the filing should set forth the dates in the format shown in this order. See Trademark Rule 2.121(d).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

