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

Mailed: December 2, 2009

Opposition No. **91191698**

McDonald's Corporation

v.

Lance R. Kaufman

Cheryl Goodman, Interlocutory Attorney:

On October 16, 2009, opposer filed a motion to strike portions of applicant's answer, filed September 14, 2009. Applicant has filed no response thereto.

Opposer complains that the answer is not properly signed. However, it is well settled that the ESTTA coversheet is considered a part of the filing and that any signature on this cover sheet pertains to any attachments, whether or not the attachments are separately signed by the individual signing the ESTTA form. *PPG Industries Inc. v. Guardian Industries Corp.*, 73 USPQ2d 1926 (TTAB 2005).

Opposer also complains that the answer is not proper under Fed. R. Civ. P. 8(b) as applicant neither admits nor denies the averments upon which opposer relies and that the answer contains "unnecessary clutter" and "irrelevant and incorrect statements." Opposer seeks for the statements in paragraphs 6, 7, 11, 12, 13, 14 and 15 to be stricken in

their entirety and the "improper portion" of paragraph 8 stricken and for the Board to grant any further relief that is proper.

Opposer's motion to strike paragraphs 6, 7, 11, 12, 13, 14 and 15 is granted as conceded. However, the Board will not deem these paragraphs admitted but will require applicant to file a proper answer.

Rule 8(b) of the Federal Rules of Civil Procedure, made applicable this proceeding by Trademark Rule 2.116(a) provides, in part:

> A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.

The notice of opposition filed by opposer herein consists of 15 paragraphs setting forth the basis of opposer's claim of damage. In accordance with Fed. R. Civ. P. 8(b) it is incumbent on applicant to answer the notice of opposition by <u>admitting or denying</u> the allegations contained in each paragraph. If applicant is without sufficient knowledge or information on which to form a belief as to the truth of any

one of the allegations, it should so state and this will have the effect of a denial.

In view of the foregoing, applicant is allowed until THIRTY DAYS from the mailing date of this order in which to file an answer herein which complies with Fed. R. Civ. P. 8 and to serve a copy on opposer in accordance with Trademark Rules 2.119(a) and (b).

The Board presumes the parties have otherwise proceeded with the case while this motion was pending. Therefore, dates remain as originally set.