

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Baxley

Mailed: November 12, 2015

Opposition No. 91200183

*The Worlds Pageants, LLC and Camila
Productions Ltd.*

v.

Miss G-String International LLC

By the Trademark Trial and Appeal Board:

On November 6, 2015, after the expiration of Opposers' time to file a brief on the case, Applicant filed a motion for summary judgment.¹ A motion for summary judgment should be filed prior to the commencement of the first testimony period in a Board proceeding; any motion for summary judgment filed after the commencement of the first testimony period may be denied as untimely. *See* Trademark Rule 2.127(e)(1); TBMP § 528.02 (2015). The first testimony period began in this case on October 31, 2014 (*see* October 15, 2014 order), more than one year ago. Accordingly, the motion for summary judgment is denied as untimely.

Opposers' time to file a brief on the case has expired, and no brief on the case is of record. Trademark Rule 2.128(a)(3) provides

When a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen days, in

¹ A motion for summary judgment is a pretrial device; trial begins with the commencement of the first testimony period. *See* TBMP § 528.02.

which to show cause why the Board should not treat such failure as a concession of the case. If plaintiff fails to file a response to the order, or files a response indicating that he has lost interest in the case, judgment may be entered against plaintiff.

Because no brief on the case from Opposers is of record, Opposers are allowed until *thirty days from the mailing date set forth in this order* to show cause why the Board should not treat the failure to file a brief as a concession of the case, failing which a judgment dismissing the notice of opposition with prejudice will be entered.² See TBMP §§ 536 and 801.02(a). Proceedings are otherwise suspended.

² If a plaintiff files a brief on the case concurrently with its response to an order to show cause under Trademark Rule 2.128(a)(3), or wishes to be afforded an opportunity to file its brief, the plaintiff's response should include a motion to reopen its time to file a brief; such motion is determined on the basis of whether the plaintiff has shown that its failure to timely file such brief was the result of excusable neglect. See TBMP § 536.