

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

kk/apb

Mailed: May 14, 2012

Opposition No. 91203898

PeopleNetwork Aps AKA  
BeautifulPeople.com

v.

Beautiful People Magazine,  
Inc.

**By the Trademark Trial and Appeal Board:**

On March 27, 2012, applicant filed an answer into which it incorporated a counterclaim. On April 27, 2012, opposer filed a motion to dismiss the counterclaim for failure to state a claim or to strike the counterclaim, and to suspend this case pending disposition to dismiss or to strike. The Board, in exercising its inherent authority to control the conduct of cases on its docket, elects to review the counterclaim at this time.

In the counterclaim, applicant asks that the Board refuse registration of the marks in opposer's pleaded application Serial Nos. 85236075, 85264026, and 85472690. A party may only counterclaim to cancel registrations owned by the adverse party. See Trademark Rules 2.106(b)(2) and 2.114(b)(2); *Pyttronic Industries Inc. v. Terk Technologies Corp.*, 16 USPQ2d 2055, 2056 n.2 (TTAB 1990); TBMP Section 313.01 (3d ed.

2011). In addition, USPTO records indicate that opposer's pleaded applications are suspended in *ex parte* examination. Therefore, any opposition to the registration of the marks in those applications is premature.<sup>1</sup> See Trademark Act Section 13, 15 U.S.C. Section 1063; Trademark Rule 2.101. Moreover, the counterclaim is not accompanied by the requisite filing fee. See Trademark Rules 2.6(a)(16) and (17); TBMP Section 313.02.

Based on the foregoing, the counterclaim is improper and will not be instituted. Opposer's motion to dismiss or strike the counterclaim is moot.

Applicant is representing itself herein. While Patent and Trademark Rule 11.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

In this opposition, the parties should review the Trademark Board Manual of Procedure (TBMP), online at

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<sup>1</sup> Applicant may, however, oppose registration of the marks in those applications if the applications are published for opposition. See Trademark Act Section 13, 15 U.S.C. Section 1063; Trademark Rule 2.101.

[http://www.uspto.gov/trademarks/process/appeal/Preface\\_TBMP.jsp](http://www.uspto.gov/trademarks/process/appeal/Preface_TBMP.jsp), and the Trademark Rules of Practice, online at <http://www.uspto.gov/trademarks/law/tmlaw.pdf>. The Board expects all parties appearing before it, whether or not they are represented by counsel, to comply with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, online at <http://www.law.cornell.edu/rules/frcp>.<sup>2</sup>

In view of the Board's delay in acting with regard to applicant's counterclaim, dates herein are reset as follows.

|                                         |          |
|-----------------------------------------|----------|
| Deadline for Discovery Conference       | 5/28/11  |
| Discovery Opens                         | 5/28/11  |
| Initial Disclosures Due                 | 6/27/11  |
| Expert Disclosures Due                  | 10/25/11 |
| Discovery Closes                        | 11/24/11 |
| Plaintiff's Pretrial Disclosures Due    | 1/8/12   |
| Plaintiff's 30-day Trial Period Ends    | 2/22/12  |
| Defendant's Pretrial Disclosures Due    | 3/8/12   |
| Defendant's 30-day Trial Period Ends    | 4/22/12  |
| Plaintiff's Rebuttal Disclosures Due    | 5/7/12   |
| Plaintiff's 15-day Rebuttal Period Ends | 6/6/12   |

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

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<sup>2</sup> Trademark Rules 2.119(a) and (b) state that every paper filed in this proceeding must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which the parties may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made, e.g., by mail. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

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completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.