

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

Mailed: April 5, 2013

Opposition No. 91208855

Greater Louisville Convention  
& Visitors Bureau

v.

The Wine Group LLC

**George C. Pologeorgis,  
Interlocutory Attorney:**

This case now comes before the Board for consideration of applicant's motion (filed March 6, 2013) to strike Affirmative Defenses Nos. 2-4 asserted in opposer's answer to applicant's counterclaim. On March 26, 2013, opposer filed a response to applicant's motion, as well as a cross-motion to amend its answer to the counterclaim. By way of its brief in opposition to the motion to strike, opposer states that it has filed an amended answer which addresses all of the issues raised in the motion to strike, and that the motion to strike can be dismissed as moot. In view thereof, the Board considers the motion to amend before considering the motion to strike.

**Motion to Amend**

Amendments to pleadings in *inter partes* proceedings before the Board are governed by Fed. R. Civ. P. 15, made

applicable to Board proceedings by operation of Trademark Rule 2.116(a). See Trademark Rule 2.107. Inasmuch as opposer's amended answer to applicant's counterclaim was not filed within twenty-one days of service of the original answer, and the original answer was not one to which a responsive pleading is required, opposer may amend its answer only by providing opposer's written consent or by obtaining leave of the Board. See Fed. R. Civ P. 15(a)(2). Applicant's written consent to the amended answer is not of record. In view thereof, the Board must determine whether to grant applicant leave to amend the answer.

In making such a determination, the Board is mindful that leave should be freely given when justice so requires. *Id.* The Board has reviewed the amended answer and determined that allowing the amendment would neither violate settled law nor be prejudicial to the rights of applicant. See TBMP § 507.01 (3d ed. rev. 2012). See also *O.C. Seacrets Inc. v. Hotelplan Italia S.p.A.*, 95 USPQ2d 1327, 1328 (TTAB 2010). Moreover, the amended answer sufficiently addresses all of the issues raised in applicant's motion to strike by deleting in its entirety Affirmative Defense No. 4 raised in the original answer and by providing a sufficient factual foundation for its asserted affirmative defenses of estoppel by laches (Affirmative Defense No. 2) and unclean hands (Affirmative Defense No. 3). In view thereof, the Board grants leave to amend the answer, opposer's cross-motion to amend is granted, and the amended answer to

applicant's counterclaim is opposer's operative pleading in this proceeding.

**Motion to Strike**

In view of the Board's acceptance of the amended answer, applicant's motion to strike is deemed moot and will be given no further consideration.

**Trial Schedule**

Proceedings herein are resumed. Trial dates, beginning with the deadline for the parties' required discovery conference, are reset as follows:

Deadline for Discovery Conference	<b>May 5, 2013</b>
Discovery Opens	<b>May 5, 2013</b>
Initial Disclosures Due	<b>June 4, 2013</b>
Expert Disclosures Due	<b>October 2, 2013</b>
Discovery Closes	<b>November 1, 2013</b>
Plaintiff's Pretrial Disclosures	<b>December 16, 2013</b>
30-day testimony period for plaintiff's testimony to close	<b>January 30, 2014</b>
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	<b>February 14, 2014</b>
30-day testimony period for defendant and plaintiff in the counterclaim to close	<b>March 31, 2014</b>
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	<b>April 15, 2014</b>
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	<b>May 30, 2014</b>
Counterclaim Plaintiff's Rebuttal Disclosures Due	<b>June 14, 2014</b>
15-day rebuttal period for plaintiff in the counterclaim to close	<b>July 14, 2014</b>
Brief for plaintiff due	<b>September 12, 2014</b>
Brief for defendant and plaintiff in the counterclaim due	<b>October 12, 2014</b>

Brief for defendant in the  
counterclaim and reply brief, if any,  
for plaintiff due

**November 11, 2014**

Reply brief, if any, for plaintiff in  
the counterclaim due

**November 26, 2014**

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.

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