

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

Mailed: April 22, 2014

Opposition/Cancellation No. 91214492

Under Armour, Inc.

v.

Armor & Glory LLC

**Cheryl S. Goodman, Interlocutory Attorney:**

This case comes up on the following motions:

- 1) applicant's motion, filed February 24, 2014, for more definite statement; and
- 2) opposer's motion, filed March 5, 2014, to strike applicant's affirmative defenses.

Turning first to opposer's motion to strike, the motion is granted as conceded. Trademark Rule 2.127(a). Applicant's affirmative defenses: "opposer's own actions" and "fraud" are hereby stricken.

The Board turns next to applicant's motion for more definite statement. The motion for more definite statement is incorporated into applicant's answer. Applicant asks for clarifying information as to "[w]hich of opposer's marks are being infringed upon" and "how does opposer's mark for ARMOUR identified Registration Nos: 3392904, 3720012, 3970978, 4133248, 4115481 and 4407361." [sic]

Opposer has opposed the motion for more definite statement, arguing that it should be denied as untimely, having been filed concurrently with the answer.

When a complaint is so vague or ambiguous that a party cannot make a responsive pleading in good faith or without prejudice to itself, the party may move for a more definite statement. TBMP Section 505.01 (3d ed. rev.2 2013). A motion for more definite statement is generally filed prior to answer. TBMP Section 505.02

Inasmuch as applicant has filed a responsive pleading admitting and denying the allegations in paragraphs 1-30, the notice of opposition was not so vague and ambiguous such that applicant could not file an answer.<sup>1</sup>

In view thereof, the motion for more definite statement is denied as moot.

Dates in this proceeding are reset as follows:

Deadline for Discovery Conference	5/12/2014
Discovery Opens	5/12/2014
Initial Disclosures Due	6/11/2014
Expert Disclosures Due	10/9/2014
Discovery Closes	11/8/2014
Plaintiff's Pretrial Disclosures	12/23/2014
Plaintiff's 30-day Trial Period Ends	2/6/2015
Defendant's Pretrial Disclosures	2/21/2015
Defendant's 30-day Trial Period Ends	4/7/2015
Plaintiff's Rebuttal Disclosures	4/22/2015
Plaintiff's 15-day Rebuttal Period Ends	5/22/2015

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<sup>1</sup> In any event, discovery between the parties would be the appropriate way to gather specific facts with regard to “infringement” and opposer’s marks. Applicant is advised that the Board opposition proceeding addresses only registrability of its involved mark as the Board’s jurisdiction does not extend to infringement claims. TBMP Section 102.01.

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