

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

CME

Mailed: January 20, 2016

Opposition No. 91219616

*Prudential Insurance Company of  
America*

*v.*

*Daryl Bank*

**Christen M. English, Interlocutory Attorney:**

On August 4, 2015, Opposer filed a motion for sanctions on the grounds that Applicant brandished a gun against a process server who was attempting to serve subpoenas in this proceeding, and that Applicant has been generally uncooperative during discovery. The Board issued an order on December 22, 2015 (the “Prior Order”): (1) finding that Opposer’s motion for sanctions based on Applicant’s purportedly uncooperative behavior during discovery was premature, Prior Order, 3; (2) finding that the U.S. District Court for the Southern District of Florida (the “District Court”) “is the necessary and appropriate forum” for addressing Opposer’s grievance concerning Applicant’s conduct with respect to the process server, and therefore, denying Opposer’s motion for sanctions, without prejudice, “pending Opposer bringing Applicant’s conduct to the attention of the District Court,” *id.* at 6 (emphasis omitted); (3) indicating that the parties should utilize Accelerated Case Resolution (“ACR”) to resolve this proceeding, *id.*; and (4) requiring the parties to

participate in an ACR conference with the assigned Interlocutory Attorney. *Id.* at p. 8. Pursuant to the Prior Order, on January 20, 2016, the Board and the parties participated in a telephone conference to discuss utilizing ACR in this proceeding. Donna Gonzales appeared on behalf of Opposer, Mark Terry appeared on behalf of Applicant and the assigned Interlocutory Attorney participated on behalf of the Board.

During the teleconference, counsel for Applicant indicated that his client is in favor of utilizing ACR to resolve this proceeding. Opposer also indicated an interest in pursuing ACR, but prior to reaching any ACR agreement, Opposer wishes to pursue relief at the District Court. Opposer stated that it intends to file a motion for sanctions with the District Court in the next two weeks. As the Board explained during the teleconference, the parties may agree to ACR after the District Court has ruled on a motion for sanctions, but waiting for the District Court to decide any such motion will necessarily delay this proceeding and negate some of the efficiencies that would be realized by utilizing ACR at this time.

If Opposer files a motion for sanctions with the District Court, Opposer must file a copy of the motion with the Board within **FIFTEEN DAYS**. As the assigned Interlocutory Attorney explained during the teleconference, because the decision of the District Court may affect this proceeding, it will be necessary to suspend this case pending disposition of any motion before the District Court. *Cf.* Trademark Rule 2.117(a).

Proceedings remain suspended for **THIRTY DAYS** from the mailing date of this order. If Opposer does not pursue relief before the District Court within thirty days, the Board will issue an order resuming proceeding and resetting dates, as appropriate.

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