

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

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Mailed: May 8, 2015

Opposition No. 91220182

Beats Electronics, LLC

v.

Betasavers LLC

Cheryl S. Goodman, Administrative Trademark Judge:

On February 5, 2015, prior to the due date of the answer, Applicant filed a paper, identified by the ESTTA generated cover sheet as an “Answer.” In acknowledging this filing, the Board, on February 13, 2015, noted that Applicant’s “Answer” did not include a certificate of service evidencing proof of service of a copy of same on counsel for Opposer as required by Trademark Rule 2.119. The Board provided a link for Opposer to access the “Answer.”¹ On March 6, 2015, Opposer filed a Motion to Strike Applicant’s “Answer” because it was unresponsive to the allegations in the

¹ Applicant’s February 5, 2015 filing was made via the Board’s electronic filing system (“ESTTA”). The Board encourages electronic filing in lieu of filing on paper. Instructions and forms for electronic filings are available at <http://estta.uspto.gov>. All Board proceeding files can be viewed electronically via TTABVUE, the Board’s publicly available docket history system, at <http://ttabvue.uspto.gov>.

notice of opposition. Applicant has not filed a response to the Motion to Strike. Accordingly, the Motion to Strike is granted as conceded.² Trademark Rule 2.127(a).

In view of the foregoing, Applicant is allowed until **thirty days from the mailing date of this order** in which to file **and serve on counsel for Opposer** an answer herein which complies in full with Fed. R. Civ. P. 8.

Applicant is referred to the following guidelines for filing a proper answer:

Fed. R. Civ. P. 8(b) provides, in part:

(b) Defenses; Admissions and Denials.

(1) *In General*. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it;

and

(B) admit or deny the allegations asserted against it by an opposing party.

(5) *Lacking Knowledge or Information*. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

The notice of opposition filed by Opposer herein consists of nineteen (19) paragraphs setting forth the basis of Opposer's claim of damage. In accordance with Fed. R. Civ. P. 8(b) it is incumbent on Applicant to answer the notice of opposition **by specifically admitting or denying the allegations contained in each para-**

² In any event, Applicant's "Answer," which has now been stricken, did not conform to the requirements of Fed. R. Civ. P. 8(b), made applicable to this proceeding by Trademark Rule 2.116(a), which calls for a party to admit or deny the numbered allegations in the complaint, as discussed herein.

graph. If Applicant is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, it should so state and this will have the effect of a denial.

In the event no response is received to this order, or Applicant fails to file an answer which complies with Fed. R. Civ. P. 8(b), notice of default will issue

The discovery conference, disclosures, discovery and trial dates are reset as follows:

Time to Answer	6/13/2015
Deadline for Discovery Conference	7/13/2015
Discovery Opens	7/13/2015
Initial Disclosures Due	8/12/2015
Expert Disclosures Due	12/10/2015
Discovery Closes	1/9/2016
Plaintiff's Pretrial Disclosures	2/23/2016
Plaintiff's 30-day Trial Period Ends	4/8/2016
Defendant's Pretrial Disclosures	4/23/2016
Defendant's 30-day Trial Period Ends	6/7/2016
Plaintiff's Rebuttal Disclosures	6/22/2016
Plaintiff's 15-day Rebuttal Period Ends	7/22/2016

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 2.135.

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 the Trademark Rule 2.129.

Information for pro se party

While Patent and Trademark Rule 11.14 permits any person to represent itself, it is strongly 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 United States Patent and Trademark Office (“USPTO”) cannot aid in the selection of an attorney.

It is recommended that Applicant familiarize itself with Title 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, and which are available at the USPTO's trademarks page: <http://www.uspto.gov/main/trademarks.htm>. The Board's main webpage (<http://www.uspto.gov/web/offices/dcom/ttab/>) includes information on the Trademark Rules and laws applicable to Board proceedings, on Accelerated Case Resolution (ACR) and Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).

As stated in the Board's February 13, 2015 order, every motion, paper or communication filed with the Board must include proof of service of a copy on opposing counsel, if represented by counsel, or the party, if not represented by counsel, in compliance with Trademark Rule 2.119(a) and (b). The Board may decline to consider any motion, paper or communication filed herein which does not include proof of service. The Board accepts a Certificate of Service as prima facie proof of service. Applicant is directed to the Board's February 13, 2015 Order for the suggested format for a Certificate of Service:

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board,

whether or not they are represented by counsel. *See McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006). The Board's order instituting this proceeding also includes information with which Applicant should become familiar.