

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

Baxley

Mailed: August 7, 2015

Opposition No. 91221837

Bibiji Inderjit K Puri

v.

Bad Yogi LLC

By the Trademark Trial and Appeal Board:

Involved Application Serial No. 86432152 was published for opposition on April 7, 2015. Accordingly, any notice of opposition or request to extend time to oppose registration of the mark in that application was due by May 7, 2015. *See* Trademark Act Section 13(a), 15 U.S.C. § 1063(a); Fed. R. Civ. P. 6(a)(1); Trademark Rules 2.101(a) and 2.102.

On May 6, 2015, Opposer timely filed a notice of opposition. In the electronic cover sheet for the notice of opposition, Opposer's attorney certified that "a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date."

On June 15, 2015, Applicant timely filed an answer and incorporated into that answer a motion to strike the notice of opposition based on alleged improper service of the notice of opposition. Applicant included a copy of the envelope in which the notice of opposition was sent which includes a postmark dated May 7, 2015, the day after the notice of opposition was filed. Opposer filed a brief in response thereto.

Trademark Rule 2.101(a) states that: “An opposition proceeding is commenced by filing in the Office a timely notice of opposition with the required fee. The notice must include proof of service on the applicant, or its attorney or domestic representative of record, at the correspondence address of record in the Office.” *See* Trademark Rule 2.101(a). In this case, the notice of opposition included proof of service, and the record indicates that the notice of opposition was timely served on Applicant. *Cf. Springfield Inc. v. XD*, 86 USPQ2d 1063 (TTAB 2008) (opposition dismissed as a nullity where notice of opposition included proof of service, but there was no actual service on applicant). Thus, Opposer substantially complied with the service requirement of Rule 2.101(a), and the motion to strike therefore will receive no consideration.

However, in view of the May 7, 2015 postmark on the envelope in which the service copy of the notice of opposition was sent, the requirements for obtaining a filing date for the notice of opposition were not perfected until May 7, 2015. *See* Trademark Rule 2.101(a). Accordingly, the filing date of the notice of opposition is hereby amended to May 7, 2015. *See Equine Touch Foundation Inc. v. Equinology Inc.*, 91 USPQ2d 1943 (TTAB 2009).

Proceedings herein are resumed. Dates are reset as follows.

Deadline for Discovery Conference	9/2/2015
Discovery Opens	9/2/2015
Initial Disclosures Due	10/2/2015
Expert Disclosures Due	1/30/2016
Discovery Closes	2/29/2016
Plaintiff's Pretrial Disclosures Due	4/14/2016
Plaintiff's 30-day Trial Period Ends	5/29/2016
Defendant's Pretrial Disclosures Due	6/13/2016

Defendant's 30-day Trial Period Ends	7/28/2016
Plaintiff's Rebuttal Disclosures Due	8/12/2016
Plaintiff's 15-day Rebuttal Period Ends	9/11/2016

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 2.125. 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.