



Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Date: July 5, 2016

Candice E. Kim
Greenberg Traurig LLP
1840 Century Park E, Suite 1900
Los Angeles, CA 90067-2121

RE: Petition to the Director
Opposition No. 91226968
Application Serial No. 86677899
Mark: ASHLEIGH MASON

Dear Ms. Kim,

This letter acknowledges receipt on March 31, 2016 of your petition to the Director, filed on behalf of Ashleigh Mason, LLC (also "Petitioner") requesting that the Trademark Trial and Appeal Board ("TTAB" or "Board") be directed not to institute an opposition proceeding against the above-identified application.¹ The request is moot and will not be considered.

Pursuant to 35 U.S.C. § 2 and 37 C.F.R. § 2.146(a)(3), the Director may invoke supervisory authority in appropriate circumstances. The Director will reverse an interlocutory order issued by the TTAB in an *inter partes* proceeding upon a showing of clear error or abuse of discretion. *Jonergin Co. Inc. v. Jonergin Vermont Inc.*, 222 USPQ 337 (Comm'r Pats. 1983); *Riko Enterprises, Inc. v. Lindsley*, 198 USPQ 480 (Comm'r Pats. 1977).

Application Serial No. 86677899 was published for opposition on November 17, 2015. On December 11, 2015, Trademark Lawyer Law Firm ("TLLF"), a law firm, filed a request for an extension of time to oppose the application using the ESTTA online filing system. On the same date, the Board granted, automatically

¹ Authority to decide any trademark petitions to the Director under 37 C.F.R. § 2.146 was delegated to the Commissioner for Trademarks. Subsequently, authority to decide petitions to the Director under 37 C.F.R. §§ 2.146(e)(1) and (e)(2), involving review of the grant or denial of an extension of time to file a notice of opposition, review of interlocutory orders issued by the TTAB, and review of requests to waive the Trademark Rules of Practice relating to TTAB cases was delegated to the Chief Administrative Trademark Judge. Under such delegation, the authority to decide this petition was further delegated.

Opposition No. 91226968; Serial No. 86677899

via ESTTA, the request, which clearly identified TLLF as the “potential opposer,” and allowed TLLF until March 16, 2016 to file a notice of opposition.

On March 16, 2016, within the extension period granted to TLLF, a notice of opposition was filed. The ESTTA cover sheet for the notice of opposition, as well as the body of attached complaint, however, identifies Makin International, Inc. as the Opposer. The opposition was automatically instituted and assigned No. 91226968. Inasmuch as the name of the Opposer on the ESTTA filing cover sheet and the body of the notice of opposition (*i.e.*, Makin International, Inc.) differs from the name of the party to whom the extension of time was granted (*i.e.*, TLLF), the TTAB, in an order dated April 19, 2016, allowed Opposer time show cause why the opposition should not be dismissed without prejudice.

Opposer filed a response to the TTAB’s order on May 4, 2016, and Petitioner, on May 26, 2016, replied thereto. The Board, in an order dated June 201, 2016, considered Opposer’s response. The Board found that the entity that obtained the extension of time to oppose, TLLF, not to be in privity with the party that filed the notice of opposition, Makin International, Inc. The Board dismissed the opposition without prejudice.

Insofar as the TTAB essentially granted the relief sought by Petitioner by dismissing without prejudice the notice of opposition automatically instituted, this petition to the Director is denied as MOOT.²

/Cheryl Butler/

Cheryl Butler
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Trademark Trial and Appeal Board

Semler/Butler

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² The \$100 petition fee paid on March 31, 2016 will be refunded in due course.