

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: August 28, 2016

Opposition No. 91227941 (**Parent Case**)  
Opposition No. 91228302

*Match.com, LLC*

v.

*Match Media Group LLC*

George C. Pologeorgis,  
Administrative Trademark Judge:

It has come to the Board's attention that the above-captioned opposition proceedings involve common questions of law and fact and the parties are the same. When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *see also, Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

Accordingly, the Board, *sua sponte*, orders the consolidation of the above-captioned proceedings. In view thereof, Opposition Nos. 91227941 and 91228302 are hereby consolidated.

The consolidated cases may be presented on the same record and briefs. *See Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board file for these consolidated cases will be maintained in **Opposition No. 91227941** as the "**parent**" case. As a general rule, from this point on only a single copy of any paper or motion should be filed in the parent case of the consolidated proceedings, but that copy should bear each opposition proceeding number of the cases consolidated in its caption. **The only exception is that the answer to each notice of opposition or amended notice of opposition, if applicable, must be filed in the respective corresponding proceeding.**

The parties are further advised that despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings and a copy of the final decision shall be placed in each proceeding file.<sup>1</sup>

In accordance with Board practice, discovery, disclosure and trial dates are reset to conform to the dates latest set in the proceedings that are being consolidated. In this instance, the Board notes that on July 12, 2016 the Board issued a notice of default to Applicant in Opposition No. 91227941 because Applicant failed to file a timely answer to the notice of opposition in that proceeding. In its July 19, 2016, response to the Board's default notice,<sup>2</sup> Applicant maintains that (1) it never received the Board's institution order in Opposition No. 91227941, and (2) it was under the belief its answer to Opposition No. 91228302 was a

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<sup>1</sup> The parties should promptly inform the Board in writing of any other related *inter partes* proceedings. See Fed. R. Civ. P. 42(a).

<sup>2</sup> Applicant's July 19, 2016, response does not demonstrate proof of service of the same upon Opposer's counsel, as required by Trademark Rule 2.119. As explained more fully *infra*, Applicant must serve every paper filed with the Board on Opposer's counsel and must include a certificate of service with each filing.

sufficient answer to Opposition No. 91227941. Notwithstanding the foregoing, Applicant requests an additional thirty days to file and serve its answer in Opposition No. 91227941.

In view of the foregoing, the Board finds good cause for Applicant's failure to file a timely answer in Opposition No. 91227941. Accordingly, the Board's default notice issued in Opposition No. 91227941 is hereby set aside. Applicant is allowed until the time set forth below in which to file and serve its answer to the notice of opposition in Opposition No. 91227941.

The Board also notes that on July 6, 2016 Applicant filed an "answer" in Opposition No. 91228302.

Applicant's "answer" filed in Opposition No. 91228302 does not comply with Rule 8(b) of the Federal Rules of Civil Procedure, which is made applicable this proceeding by Trademark Rule 2.116(a), particularly because the "answer" argues the merits of Opposer's pleading and does not specifically admit or deny the allegations asserted therein..

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.

Each of Opposer's notices of opposition consists of 15 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 each notice of opposition **by specifically admitting or denying the allegations contained in each paragraph of each pleading. 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.**

Accordingly, Applicant is allowed until **September 19, 2016** in which to file and serve an answer to each of the notices of opposition that complies with Fed. R. Civ. P. 8(b). Applicant must file its answer to each notice of opposition in the corresponding proceeding.

Remaining trial dates for this now consolidated case are reset as follows:

|   |                   |
|---|-------------------|
| Deadline for Discovery Conference       | <b>10/19/2016</b> |
| Discovery Opens                         | <b>10/19/2016</b> |
| Initial Disclosures Due                 | <b>11/18/2016</b> |
| Expert Disclosures Due                  | <b>3/18/2017</b>  |
| Discovery Closes                        | <b>4/17/2017</b>  |
| Plaintiff's Pretrial Disclosures Due    | <b>6/1/2017</b>   |
| Plaintiff's 30-day Trial Period Ends    | <b>7/16/2017</b>  |
| Defendant's Pretrial Disclosures Due    | <b>7/31/2017</b>  |
| Defendant's 30-day Trial Period Ends    | <b>9/14/2017</b>  |
| Plaintiff's Rebuttal Disclosures Due    | <b>9/29/2017</b>  |
| Plaintiff's 15-day Rebuttal Period Ends | <b>10/29/2017</b> |

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.

**Pro Se Information**

The Board notes that Applicant is representing itself in these now consolidated proceedings. Although Patent and Trademark Rule 11.14 permits an entity to represent itself, it is strongly advisable for a party who is not acquainted with the technicalities of the procedural and substantive law involved in *inter partes* proceedings before the Board 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. As the impartial decision maker, the Board may not provide legal advice; it may provide information solely as to procedure.

Any party who does not retain counsel should be familiar with the authorities governing this proceeding, including the Trademark Trial and Appeal Board Manual of Procedure (TBMP), and the Trademark Rules of Practice (37 C.F.R. Part 2), both accessible directly from the Board's web page: <http://www.uspto.gov/trademarks/process/appeal/index.jsp>. Also on the Board's web page are links to ESTTA, the Board's electronic filing system<sup>3</sup> at <http://estta.uspto.gov>, and TTABVUE, for case status and prosecution history at <http://ttabvue.uspto.gov/ttabvue>.

Trademark Rules 2.119(a) and (b) require that every paper filed in the USPTO in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney. Proof of service must be made before

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<sup>3</sup> The Board strongly encourages parties to file all papers through ESTTA, which operates in real time and provides a tracking number that the filing has been received. For assistance in using ESTTA, call 571-272-8500.

the paper will be considered by the Board. Accordingly, copies of all papers filed in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. *See* TBMP § 113.03. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service, must be signed and dated, and should take the form of a certificate of service as follows:

**I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by mailing said copy on (insert date of mailing), via First Class Mail, postage prepaid (or insert other appropriate method of delivery) to: (name and address of opposing counsel or party).**

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

Strict compliance with the Trademark Rules of Practice, and the Federal Rules of Civil Procedure (where applicable), is required 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).

This *inter partes* proceeding is similar to a civil action in a federal district court. The parties file pleadings and a range of possible motions. This proceeding includes designated times for disclosures, discovery (discovery depositions, interrogatories, requests for production of documents and things, and requests for admission, to ascertain the facts underlying an adversary's case), a trial period, and the filing of briefs. The Board does not preside at the taking of testimony; all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and

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the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No paper, document, or exhibit will be considered as evidence unless it has been introduced in evidence in accordance with the applicable rules.