

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: September 25, 2007

Cancellation No. 92047740

Peter W. Marder

v.

Newspapers for Women, Inc.

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

On August 3, 2007, respondent filed a timely answer to the petition to cancel.¹ Respondent's answer fails to indicate proof of service on petitioner, as required by Trademark Rule 2.119.

In order to expedite this matter, a copy of the answer is forwarded herewith to petitioner's counsel.² Notwithstanding, strict compliance with Trademark Rule 2.119 is required by respondent in all future papers filed with the Board.

¹ The Board notes in passing that respondent's answer is accompanied by a copy of a mediation agreement between the parties. While a party may attach exhibits to its pleadings, such exhibits are not considered evidence on behalf of the party to whose pleading they are attached unless they are thereafter, upon a motion for summary judgment or during the time for taking testimony, properly identified and introduced in evidence as exhibits. See TBMP §317 (2d ed. rev. 2004).

² Petitioner also may access the answer on-line at <http://ttabvue.uspto.gov/ttabvue/v?pno=92047740&pty=CAN&eno=4>.

Dates otherwise remain as set in the institution order dated June 29, 2007. Such dates are copied below:

Discovery period to close:	1/15/2008
30-day testimony period for party in position of plaintiff to close:	4/14/2008
30-day testimony period for party in position of defendant to close:	6/13/2008
15-day rebuttal testimony period for plaintiff to close:	7/28/2008

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.

NATURE OF A CANCELLATION PROCEEDING

Respondent is advised that an *inter partes* proceeding before the Board is similar to a civil action in a Federal district court. There are pleadings, a wide range of possible motions; discovery (a party's use of discovery depositions, interrogatories, requests for production of documents and things, and requests for admission to ascertain the facts underlying its adversary's case), a trial, and briefs, followed by a decision on the case. The Board does not preside at the taking of testimony. Rather, all testimony is taken out of the presence of the Board during the assigned testimony, or

trial, periods, and 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 in the case unless it has been introduced in evidence in accordance with the applicable rules.

REQUIREMENT FOR SERVICE ON ADVERSE PARTY OF ALL PAPERS FILED

In future filings, respondent is expected to comply with the service requirements set forth in Trademark Rule 2.119. Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office 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, and proof of such service must be made before the paper will be considered by the Board.

Consequently, copies of all papers which respondent may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. Strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board.

The Board will accept, as *prima facie* proof that a party filing a paper in a Board *inter partes* proceeding has served a copy of the paper upon every other party to the proceeding, a statement signed by the filing party, or by its attorney or other authorized representative, clearly stating the date and manner in which service was made. This written statement should

take the form of a "certificate of service" which should read as follows:

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon opposer by forwarding said copy, via first class mail, postage prepaid to: [insert name and address].

The certificate of service must be signed and dated. *See also* TBMP §113 (2d ed. rev. 2004).

ELECTRONIC RESOURCES

All parties may refer to the Trademark Trial and Appeal Board Manual of Procedure (TBMP) and the Trademark Rules of Practice, both available on the USPTO website, www.uspto.gov. Other useful databases include the ESTTA filing system for Board filings and TTABVUE for status and prosecution history.

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.