

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

Mailed: November 26, 2011

Cancellation No. 92054318

FABI S.P.A.

v.

de la barracuda

Jennifer Krisp, Interlocutory Attorney:

On September 2, 2011, the Board, via the ESTTA filing system, granted respondent's motion to extend its time to answer, and all subsequent dates, by ninety days. The Board now notes petitioner's objection, filed October 27, 2011, wherein it informs the Board that it did not agree to the requested extension of time. Respondent did not file a communication in response thereto.

Inasmuch as the Board seeks to not further delay this proceeding, and inasmuch as respondent's September 2, 2011 motion is the first and only extension sought, respondent's time to answer, and subsequent dates, will remain as set in the September 2, 2011 order. Accordingly, respondent's answer remains due December 11, 2011.

The Board will grant no further unconsented extension of time in which to answer the petition to cancel.

Flowing from the Board's inherent authority to manage the cases on its docket is the inherent authority to enter sanctions against a party. See TBMP § 527.03 (3d ed. 2011). Respondent is advised that any written or verbal misrepresentation to the Board with respect to a party's consent to a motion is a serious matter which the Board may, in its discretion, address by way of a sua sponte imposition of sanctions on the noncompliant party, or by way of granting a motion for sanctions filed by petitioner.

Information for pro se party

The format and content of respondent's answer is governed by Fed. R. Civ. P. 8(b), made applicable to this proceeding by Trademark Rule 2.116(a).

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

A party shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If a party is without knowledge or information sufficient to form a belief as to the truth of an averment, the party shall so state and this has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, the pleader shall specify so much of it as is true and material and shall deny only the remainder.

In accordance with Fed. R. Civ. P. 8(b) it is incumbent on respondent to answer the petition to cancel by admitting or

denying the allegations contained in each paragraph. If respondent is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, it must so state and this will have the effect of a denial.

Every motion, paper or communication filed with the Board must include proof of service of a copy on opposing counsel or party, 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, such as a Certificate of Service. The Board's Manual of Procedure (TBMP) sets forth the following suggested format for a Certificate of Service:

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: (set out name and address of opposing counsel or party).

See TBMP § 113.03 (3d ed. 2011)

While Patent and Trademark Rule 11.14 permits any person to represent itself, it is strongly recommended that a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

All parties, including pro se parties, are bound by Fed. R. Civ. P. 11 and Patent and Trademark Rule 11.18. See TBMP § 106.02 (3d ed. rev. 2011). While the Board has provided guidance herein to respondent with respect to its time to answer and format of an answer, the Board is unlikely to provide commensurate guidance with respect to respondent's future filings, and requires compliance with all applicable procedural and substantive authorities, as appropriate.

It is recommended that respondent be familiar with the Trademark Rules of Procedure (Chapter 37 of the Code of Federal Regulations), the Federal Rules of Civil Procedure that apply to Board proceedings (see Trademark Rule 2.116(a)), and the Board's Manual of Procedure ("TBMP") which is available at the Board's web page at [www.uspto.gov](http://www.uspto.gov). Strict compliance with these authorities, as applicable, is required of all parties throughout all stages of an inter partes proceeding, 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 initial order instituting this proceeding also includes information with which respondent must be familiar.