

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

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Mailed: October 29, 2014

Cancellation No. **92057717**

Samuel Katzin-Simon

v.

Ambrea C. Hanson

Yong Oh (Richard) Kim, Interlocutory Attorney:

On October 23, 2014, the Board held a telephone conference to hear argument and rule on respondent's motion (filed September 23, 2014) to suspend this proceeding. Petitioner has contested the motion. Michael Chiapetta, Esq., of Fross Zelnick Lehrman & Zissu PC appeared as counsel for petitioner and Ambrea C. Hanson appeared *pro se*.¹

Trademark Rule 2.117(c) provides that proceedings may be suspended "for good cause, upon motion or a stipulation of the parties approved by the Board." In her motion, respondent states that "[s]ince December 2013[, she] has been attempting to escape domestic violence," that "[f]rom January of 2014 until September 19, 2014[, she] has been seeking safety and shelter from the abuser," that "[o]n September 3, 2014[, she] was granted a Domestic

¹ Throughout the conference, respondent was addressed by her maiden name DiMaggio per her preference.

Abuse [I]njunction and Order of Protection against abuser by the State of Wisconsin (Wisconsin Circuit Court Case No. 14CV2397D),” and that she and her four children “have been homeless, [receiving] shelter through Domestic Abuse Intervention Services of Madison, Wisconsin until September 17th, 2014.”

During the conference, respondent updated the Board and petitioner on her current status, noting that she and her children are currently residing in a temporary residence, that her children are attending school and that she is attending a Wisconsin work program designed for victims of domestic abuse, that she and two of her children are receiving domestic abuse recovery therapy, and that additional hearings relating to the domestic violence proceeding are scheduled for October and December.

For his part, petitioner is opposed to a suspension of this matter noting that respondent’s request seeks a suspension of unstated duration and that respondent has yet to serve her initial disclosures. Petitioner further notes that he served respondent with his first set of discovery requests on October 1, 2014, but has yet to receive any responses thereto although conceding that such responses are not yet due.

The Board finds in respondent’s circumstances good cause to suspend this proceeding and hereby **GRANTS** respondent’s motion to suspend. However, and as discussed during the conference, considering that respondent finds herself in more stable circumstances than at the time the motion was made, e.g., no longer homeless, children are attending school, has

access to the Internet, has a new cell phone number, attending a work program and receiving counseling, and balancing the rights of opposer to proceed with this matter, the suspension is modified to the extent that **respondent is allowed until January 23, 2015, to respond to opposer's discovery requests of October 1, 2014.** As the parties have also expressed an interest in discussing a possible settlement of this matter, the parties are encouraged to do so during the suspension period. To be clear, **this matter is SUSPENDED for all other purposes.**

Finally, it is noted that the parties have agreed to continue providing, via email, courtesy copies of any paper served. Courtesy copies will be directed to petitioner at mc@fzlj.com and to respondent at twentysixam@icloud.com. Petitioner has further agreed to serve respondent at the correspondence address of record as well as at respondent's current address which respondent will provide to petitioner with the understanding that the address will remain confidential and not reflected in any certificate of service.

Upon resumption, the parties are to proceed under the following schedule:

Proceedings Resume	1/23/2015
Respondent's Initial Disclosures and Discovery Responses Due	1/23/2015
Expert Disclosures Due	2/23/2015
Discovery Closes	3/25/2015
Plaintiff's Pretrial Disclosures Due	5/9/2015
Plaintiff's 30-day Trial Period Ends	6/23/2015
Defendant's Pretrial Disclosures Due	7/8/2015
Defendant's 30-day Trial Period Ends	8/22/2015

Plaintiff's Rebuttal Disclosures Due
Plaintiff's 15-day Rebuttal Period Ends

9/6/2015
10/6/2015

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 taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 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 record does not reflect that respondent is represented by legal counsel in this proceeding. While Patent and Trademark Rule 11.14(e) permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in a cancellation proceeding to 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.

The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure govern the conduct of this proceeding. The Trademark Act, the Trademark Rules of Practice, and the Trademark Trial and Appeal Board Manual of Procedure (TBMP) are all available on the

TTAB page of the USPTO website at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>. This web page also includes information on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and other relevant topics.

Respondent is reminded that 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 adversary), and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers that the parties may subsequently file in this proceeding must be accompanied by “proof of service” of a copy on the other party or the other party’s counsel.

“Proof of service” usually consists of a signed, dated statement stating: (1) the nature of the paper being served, (2) the method of service (e.g., first class mail), (3) the person being served and the address used to effect service, and (4) the date of service. For future reference, a suggested format for the certificate of service is provided below:

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)

Signature

See TBMP § 113.

Respondent should further note that any paper she is required to file with the Board should not take the form of a letter; proper format should be utilized. The form of submissions is governed by Trademark Rule 2.126. See also TBMP § 106.03. In particular, “[a] paper submission must be printed in at least 11-point type and double-spaced, with the text on one side only of each sheet” and text “in an electronic submission must be in at least 11-point type and double-spaced.” Trademark Rule 2.126(a)(1) and 2.126(b).

While it is true that the law favors judgments on the merits wherever possible, it is also true that the Patent and Trademark Office is justified in enforcing its procedural deadlines. *Hewlett-Packard v. Olympus*, 18 USPQ2d 1710 (Fed. Cir. 1991). In that regard, the parties should note that any paper they are required to file herein must be received by the Board by the due date, unless one of the filing procedures set forth in Trademark Rules 2.197 and 2.198 is utilized.

Files of TTAB proceedings can be examined using TTABVue, accessible at <http://ttabvue.uspto.gov/ttabvue>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format.

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