

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

CME

Mailed: November 4, 2015

Cancellation No. 92061916

*M/s. Emami Limited*

*v.*

*Himani Gupta*

**Christen M. English, Interlocutory Attorney:**

On October 29, 2015, the Board convened a telephone conference to address Respondent's motions to extend, filed September 30, 2015 and October 28, 2015. Leo Loughlin appeared on behalf of Petitioner, Respondent appeared *pro se*,<sup>1</sup> and the interlocutory attorney assigned to this proceeding participated on behalf of the Board.<sup>2</sup>

During the telephone conference, Petitioner withdrew its opposition to Respondent's motion of September 30, 2015 and consented to Respondent's motion of October 28, 2015. Accordingly, Respondent's motions to extend are **GRANTED**, and Respondent is allowed until **December 3, 2015** to file an answer to the petition to cancel.

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<sup>1</sup> Information for parties representing themselves *pro se* is provided at the end of this order.

<sup>2</sup> Respondent's husband Deepak Gupta participated in the telephone conference to translate for Respondent. The Board reminded Mr. Gupta during the teleconference that because he is not an attorney, he may not represent or otherwise act on behalf of Respondent in this proceeding.

In addition to addressing Respondent's extension requests, during the telephone conference the Board addressed Respondent's *pro se* representation and the issue of *ex parte* communications. Respondent informed the Board that she is consulting with an attorney on this matter, but no attorney has entered an appearance in this proceeding on her behalf. Accordingly, the Board advised Respondent that all communications concerning this proceeding, including any settlement discussions, must occur between Respondent and counsel for Petitioner, unless an attorney enters an appearance on her behalf. The Board also reminded Respondent that it uses email only to scheduled telephone conferences, when necessary, and the Board will initiate any such email communications. *See Patagonia, Inc. v. Azzolini*, 109 USPQ2d 1859, 1860 n.4 (TTAB 2014) ("As a general rule, the Board does not accept email from the parties; however, a rare exception is made to facilitate the procedural matter of setting-up telephone conferences. In any event, any direct email communication between the parties and the Board must be initiated by the Board. Any such communication not initiated by the Board may not be considered."). Accordingly, Respondent is prohibited from sending email communications to the Board, other than in response to an email initiated by the Board, or otherwise attempting to communicate with the Board *ex parte*.

Dates in this proceeding are reset as follows:

Time to Answer	<b>12/3/2015</b>
Deadline for Discovery Conference	<b>1/2/2016</b>
Discovery Opens	<b>1/2/2016</b>
Initial Disclosures Due	<b>2/1/2016</b>
Expert Disclosures Due	<b>5/31/2016</b>
Discovery Closes	<b>6/30/2016</b>

Plaintiff's Pretrial Disclosures Due	8/14/2016
Plaintiff's 30-day Trial Period Ends	9/28/2016
Defendant's Pretrial Disclosures Due	10/13/2016
Defendant's 30-day Trial Period Ends	11/27/2016
Plaintiff's Rebuttal Disclosures Due	12/12/2016
Plaintiff's 15-day Rebuttal Period Ends	1/11/2017

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.

***Information for Pro Se Parties***

Patent and Trademark Rule 11.14 permits a person to represent herself, but 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 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).

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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.

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 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.

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