

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: September 16, 2015

Cancellation No. 92061981

Kosher Supervision Service, Inc.

v.

Yoel Steinberg

**M. Catherine Faint,
Interlocutory Attorney:**

This case now comes up on the following matters.

Motion to Extend Time without Consent

Respondent's motion without consent, filed September 1, 2015, for an extension of time to file the answer or otherwise respond is noted. The Board notes Respondent has also filed on September 11, 2015, a motion to strike matter from the petition to cancel. A motion to strike does not normally relieve a defendant from filing its responsive pleading. Fed. R. Civ. P. 12(f); *Order of Sons of Italy in America v. Profumi Fratelli Nostra AG*, 36 USPQ2d 1221, 1222 (TTAB 1995); *American Vitamin Prods., Inc. v. Dow Brands, Inc.*, 22 USPQ2d 1313, 1314 (TTAB 1992).

However, in order to control matters on the Board's docket, the motion to extend will be considered together with Respondent's motion to strike, and Petitioner is allowed to file a single response as noted below.

Motion to Exceed Page Limit

Respondent's motion, filed September 8, 2015 to exceed the page limit in its brief on the case is **premature** and will be given no consideration. This proceeding is still in the pretrial stage. To the extent Respondent seeks to style its answer, which is not yet filed, as an argumentative pleading, the Federal Rules regarding an answer apply to this proceeding. Respondent should note the information below regarding an answer.

Motion to Strike

Due to the multiplicity of filings, Petitioner is allowed to file its response to the motion to extend as part of its response to the motion to strike, limited to 25 pages. Petitioner's response, if any, is due within 21 days of the filing and service of the motion to strike. Respondent's reply brief, if any, should be filed in accordance with Trademark Rule 2.127(a).

Proceedings are otherwise **suspended** pending disposition of Respondent's motions to extend and to strike. Any paper filed during the pendency of these motions which is not relevant thereto will be given no consideration. *See* Trademark Rule 2.127(d).

Requirements for an Answer

An answer must comply with the requirements set forth in Rule 8(b) of the Federal Rules of Civil Procedure, which is made applicable this proceeding by Trademark Rule 2.116(a).

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.

In accordance with Fed. R. Civ. P. 8(b) it is incumbent on respondent to answer the petition to cancel at the appropriate time, by specifically 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 should so state and this will have the effect of a denial.

The time for filing at answer will be reset upon determination of the motions to extend and to strike, if appropriate.

Pro Se Information

The Board notes that Respondent is representing himself in this proceeding. 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 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) 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).

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 may include 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.

The motions to extend and to strike will be decided in due course.
