

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

RK

Mailed: April 20, 2016

Cancellation No. **92062976**

Carlos Martinez Somoza

v.

J. Sergio Rios Gutierrez

Yong Oh (Richard) Kim, Interlocutory Attorney:

By the Board's institution order of January 20, 2016, the deadline for the parties' discovery conference was scheduled for March 30, 2016. On that day, Respondent requested, via telephone, Board participation for the discovery conference. This proceeding was reassigned to the above-signed interlocutory attorney and on April 1, 2016, the Board emailed the parties notifying them that the Board has agreed to participate in the parties' discovery conference notwithstanding the untimeliness of the request, *see* Trademark Rule 2.120(a)(2), and ordering the parties to confer and propose to the Board three (3) mutually agreeable dates and times for the conference (to be held no later than April 13, 2016). Neither party responded to the Board's email.

In view thereof, the Board presumes that the parties have held their discovery conference. Dates remain as set in the Board's institution order.

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 himself or herself, 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 he 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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