

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 20, 2004

Concurrent Use No. 94002083

El Viajero Cheese Company,
Inc.

v.

MARQUEZ BROTHERS
INTERNATIONAL, INC.

TTAB

MARQUEZ BROTHERS INTERNATIONAL, INC.
1670 LAS PLUMAS AVENUE, SUITE C
SAN JOSE, CA 95133

Angela Campbell, Paralegal Specialist:

The applicant in application Serial No. [concurrent use applicant's serial no. 76130223] has applied for a concurrent use registration for the trademark or service mark set forth below.

Name of applicant : El Viajero Cheese Company, Inc.
Applicant's address : 18 Huntington Place
Brooklyn, NY 11231
Applicant's mark : EL VAQUERO
Goods or services : processed diary products
excluding ice cream, ice milk
and frozen yogurt in
International Class 29
Filing date : September 18, 2000
Territory of use : for the States of New York, New
Jersey, Connecticut,
Massachusetts, Rhode Island,
Maryland, Delaware, Virginia,
Florida and the District of
Columbia



10-12-2004

Attorney

: Catherine S. Bridge
1358 Clove Road
Staten Island, NY 10301

In its application, the applicant has recited as an exception to its allegation of exclusive use of said mark, use by you of an identical or very similar mark. Your mark, goods or services, and territory of use, as *acknowledged* in the referenced application, are set out below in a summary of details of the application. A copy of the application as filed is included herewith.

Your mark : VAQUERO

Your goods or services : Mexican foods; namely cheese and cream

Your territory of use : the entire United States except for the States of New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Virginia, Florida, the District of Columbia, Pennsylvania, Vermont, West Virginia, Kentucky, Tennessee, North Carolina, Alabama and Georgia.

Since the Office has determined that applicant's mark appears entitled to registration, subject to a concurrent use proceeding with you, a concurrent use proceeding is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946.

The proceeding will be conducted in accordance with the Rules of Practice in Trademark cases, as set out in Title 37 of the Code of Federal Regulations. Rule 2.99 thereof, under which this notice is given, provides that:

An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified as a concurrent user in the application, but a statement, if desired, may be filed within forty days after the mailing of the notice; in the case of any other party specified as a concurrent user in the application,

an answer must be filed within forty day after the mailing of the notice.

You are allowed until **40 days from the mailing date above** to file an answer in accordance with Rule 2.99. If filed, the answer should be directed to the allegations relating to concurrent use recited in the application identified herein.

You are also requested to advise the Board of any relevant applications or registrations, other than those already listed herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and should be filed on or before October 30, 2004.

DISCOVERY AND TESTIMONY PERIODS ARE SET AS INDICATED BELOW.

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. Rule 2.125.

Discovery to open:	November 3, 2004
Discovery to close:	May 2, 2005
Testimony period for party in position of plaintiff to close: (opening thirty days prior thereto)	July 31, 2005
Testimony period for party in position of defendant to close: (opening thirty days prior thereto)	September 29, 2005
Rebuttal testimony period to close: (opening fifteen days prior thereto)	November 13, 2005

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Rule 2.129.

CC:

CATHERINE SMITH BRIDGE
1358 CLOVE ROAD
STATEN ISLAND, NY 10301

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 20, 2004

Concurrent Use No. 94002083

EL VIAJERO CHEESE COMPANY,
Inc.

v.

MARQUEZ BROTHERS
INTERNATIONAL, INC.

To: CATHERINE SMITH BRIDGE

Re: Serial No.: 76130223
Filed: 9/20/2004

Angela Campbell, Paralegal Specialist:

A concurrent use proceeding involving your above-identified application is hereby instituted under the provisions of Section 2(d) of the Trademark Act of 1946. The proceeding will be conducted in accordance with the Rules of Practice in Trademark Cases, as set out in Title 37 of the Code of Federal Regulations.

MARQUEZ BROTHERS INTERNATIONAL, INC. [defending registrant], the registrant referred to in your application, is being notified on this date of the institution of the concurrent use proceeding and is being supplied with a copy of your application, in accordance with the provisions of Rule 2.99. As the owner of a registration (no. [defending registrant's registration no.1404276]), [defending registrant] is not required to file an answer but may do so under Rule 2.99. The Trademark Trial and Appeal Board has set October 30, 2004 as the due date for any such answer.

You are requested to advise the Board of any relevant applications or registrations, other than those already referenced herein, which should be included in this concurrent use proceeding. Your response, if any, should be in writing and must be filed on or before **40 days from the mailing date above.**

**DISCOVERY AND TESTIMONY PERIODS ARE SET AS
INDICATED BELOW.**

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. Rule 2.125.

Discovery to open:	November 3, 2004
Discovery to close:	May 2, 2005
Testimony period for party in position of plaintiff to close: (opening thirty days prior thereto)	July 31, 2005
Testimony period for party in position of defendant to close: (opening thirty days prior thereto)	September 29, 2005
Rebuttal testimony period to close: (opening fifteen days prior thereto)	November 13, 2005

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Rule 2.129.

CC:

MARQUEZ BROTHERS INTERNATIONAL, INC.
1670 LAS PLUMAS AVENUE, SUITE C
SAN JOSE, CA 95133

IN THE UNITED STATES PATENT TRADEMARK OFFICE
APPLICATION FOR TRADEMARK REGISTRATION

MARK: EL VAQUERO

INT. CLASS: 29

TO: The Assistant Secretary and Commissioner of
Patents and Trademarks:

El Viajero Cheese Company, Inc.
18 Huntington Place
Brooklyn, NY 11231

Applicant is a corporation organized and existing under the laws of the State of New York

The above identified applicant has adopted and is using trademark shown in the accompanying drawing and requests that such mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. 1051 et seq., as amended) for the following goods:

Processed dairy products excluding ice cream, ice milk and frozen yogurt international class 29.

Applicant is using the mark on the goods and on labels affixed to the goods in international class 29 and three (3) specimens showing the mark as actually used are attached.

The mark was first used on the goods on or about July 1, 1972; was first used in interstate commerce in the United States on said goods on or about July 1, 1972; and is still in use on these goods in said commerce.

Applicant seeks registration subject to the concurrent use of the mark VAQUERO and design for cheese and cream as shown in

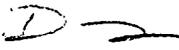
Registration No. 1,404,276, owned by Marquez Brothers Mexican Imports, Inc. d/b/a Vaquero Corporation California, which registration is territorially restricted to the encompass all of the United States except the States of New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Virginia, Florida and the District of Columbia, Pennsylvania, Vermont, West Virginia, Kentucky, Tennessee, North Carolina, Alabama and Georgia, pursuant to Concurrent Use proceeding no. 776 with Serial No. 73/641,715. Applicant seeks a concurrent use registration with the foregoing registration and thereby claims the exclusive right to use mark EL VAQUERO in the territory comprising the States of New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Virginia, Florida and the District of Columbia.

DAVID McNEELY, President of the above-identified applicant, being duly warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements might jeopardize the validity of the application or any registration resulting therefrom, hereby declares that he is the President of the above-identified applicant and he is authorized to make this declaration, that he believes that the application corporation the owner of the mark sought to be registered, to the best of his knowledge and belief, no other person, corporation, or association has the right to use said mark, in commerce, either in the identical form, or in such

near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; all statements made of his own knowledge are true and all statements made in information and belief are believed to be true.

The undersigned hereby appoints Catherine Smith Bridge, Esq. a member of the bar of the State of New York, having an office at 1358 Clove Road, Staten Island, NY 10301 as Applicant's attorney to prosecute this application for registration, to transact all business in the Patent and Trademark Office in connection herewith, to receive the Certificate of Registration and to take any and all action in this matter.

Dated: July 31, 2001



David McNeely, President

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: El Viajero Cheese Company, Inc.
18 Huntington Street
Brooklyn, NY 11231

SERIAL NO.: 76/130,233

FILED: September 18, 2000

FIRST USE: May 30, 2000
IN COMMERCE: May 30, 2000

GOODS: Processed dairy products excluding ice cream, ice
milk and frozen yogurt in international class 29.

EL VAQUERO



76130223

KEEP REFRIGERATED


CONCURRENT USE

APPLICANT:	El Viajero Cheese Company, Inc.
ADDRESS:	18 Huntington Place, Brooklyn, N.Y. 11231
MARK:	EL VAQUERO
GOODS OR SERVICES:	PROCESSED DAIRY PRODUCTS EXCLUDING ICE CREAM, ICE MILK AND FROZEN YOGURT IN INTERNATIONAL CLASS 29
OTHER REG. OR SERIAL NOS.:	
DATES OF USE:	First use July 1, 1972 Use in commerce July 1, 1972
AREA OF USE:	New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Virginia, Florida and the District of Columbia

EXCEPTION TO EXCLUSIVE USE

NAME:	Marquez Brothes Mexican Imports, Inc.
ADDRESS:	1670 Las Plumas Ave. # C, San Jose, California 95133
MARK:	Vaquero and design
GOODS OR SERVICES:	Mexican foods, namely, cheese and cream in International Class 29
REG. OR SERIAL NOS.:	Registration Number 1404276
DATES OF USE:	First use September 6, 1985 use in Commerce September 28, 1985
AREA OF USE:	Area of use is restricted to comprise the United States except the States of New York, New Jersey, Connecticut, Massachusetts, Rhode Island, Maryland, Delaware, Virginia, Florida, the District of Columbia, Pennsylvania, Vermont, West Virginia, Kentucky, Tennessee, North Carolina, Alabama and Georgia

**TTAB NOTICE CONCERNING CORRESPONDENCE ADDRESS
(TRADEMARK RULE 2.18)**

The Trademark Trial and Appeal Board will mail correspondence to only one address for each party.

If a party is located in the U.S., correspondence will be sent to the party's own address, unless (1) papers filed with the Board are filed by a party's attorney, (2) a written power of attorney is filed, (3) a written authorization of some other person entitled to be recognized is filed, or (4) the party requests in writing that correspondence be sent to another address. In these situations, correspondence will be sent, respectively, to (1) the attorney filing papers, (2) the attorney named in the power of attorney, (3) the other person designated in the written authorization, or (4) the other address specified by the party.

When one attorney or other authorized representative makes an appearance on behalf of a party, his address is noted on the proceeding file as the correspondence address. If a second attorney or other authorized representative makes an appearance on behalf of the party, and requests that correspondence be directed to him, the correspondence address on the proceeding file will be changed, and future correspondence will be sent to the second attorney or other authorized representative, rather than to the first one. If the second attorney or other authorized representative does not request that correspondence be sent to him, the Board will continue to send correspondence to the first attorney or authorized representative.

If a power of attorney from a party to one attorney has been filed, and thereafter another attorney or authorized representative makes an appearance on behalf of the party and asks that correspondence be sent to him, the second attorney or authorized representative will be required to submit authorization, from the party or from the first attorney, for the requested change in correspondence address.

If a power of attorney from a party to one attorney has been filed, and thereafter a power of attorney from the party to another attorney is filed, the second power of attorney will be construed as a written request to change the correspondence address from the first attorney to the second one, even if there is no revocation of the first power, unless the party or the first attorney directs otherwise. Likewise, if an attorney makes an appearance on behalf of a party, and thereafter the party files a written power of attorney to another attorney, the Board will send subsequent correspondence to the appointed attorney.

If a power of attorney from a party to one attorney has been filed, and thereafter that attorney files an "associated power of attorney" to another attorney, the correspondence address will remain unchanged, and the Board will continue to send correspondence to the first attorney, unless the first attorney or the party directs otherwise.

In the case of a party whose application is the subject of a Board proceeding, any appearance or power of attorney (or designation of other authorized representative) of record in the application file at the time of the commencement of the Board proceeding is considered to be effective for purposes of the proceeding, and correspondence will be sent initially to that address. Thereafter, the correspondence address may be changed as described in Trademark Rule 2.18.

In the case of a party whose registration is the subject of a Board proceeding, any representative which may be of record in the registration file at the time of the commencement of the Board proceeding is not considered to be effective for purposes of the Board proceeding. Rather, correspondence is sent to the registrant itself unless and until another correspondence address is established in the manner described in Trademark Rule 2.18.

THE TRADEMARK TRIAL AND APPEAL BOARD WOULD LIKE YOU TO KNOW:

The TTAB Customer Service Center is available to

- *answer telephone inquiries
- *explain pertinent legal provisions and related administrative practices as they apply to specific cases
- *provide status information on pending cases
- *provide access to the files of pending cases
- *resolve problems

The telephone number for the TTAB Customer Service Center is (703) 308-9300, extension 0 [zero].

The Patent and Trademark Office has two special boxes for expedited processing and distribution of documents filed with the TTAB. Envelopes and transmittal letters for TTAB should be addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202, followed by one of the following designations

“Box TTAB Fee”: for papers filed with the TTAB that include filing fees, such as notices of opposition, petitions to cancel, and notices of ex parte appeal

and

“Box TTAB”: for all non-fee papers filed with the TTAB, such as requests for extensions of time to file notices of opposition and motions.

The TTAB Customer Service Center makes every effort to provide public access to application files, opposition files, cancellation files and concurrent use files immediately upon request for access. Files located will be made available in a central storage area accessible to the public. You can also access information about TTAB proceeding files online. Go to <http://www.uspto.gov/web/offices/dcom/ttab/> and click the “BISX LINK”.

Any questions, comments, or suggestions concerning TTAB service should be directed to Jean Brown, TTAB Technical Program Manager, at (703) 308-9300, extension 123 or Afendi Ziad, Supervisory Legal Assistant at (703) 308-9300, extension 205 or Angela Pope, Supervisory Legal Assistant at (703) 308-9300, extension 144.

NOTICE CONCERNING ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Trademark Trial and Appeal Board encourages you to consider alternative dispute resolution as a means of settling the issues raised in this opposition or cancellation proceeding. Although more than 95% of Board proceedings are decided prior to trial (by settlement or by entry of pre-trial judgment), alternative dispute resolution techniques might produce an earlier, mutually agreeable resolution of your dispute or might, at least, narrow the scope of discovery or the issues for trial. In either case, alternative dispute resolution might save you time and money.

Many non-profit organizations, both inside and outside the intellectual property field, offer alternative dispute resolution services. Listed below are the names and addresses of organizations that have indicated that they can make arrangements for alternative dispute resolution. The listings are given for your convenience; the Board does not sponsor nor endorse any particular organization's alternative dispute resolution services.

International Trademark Association Telephone: (212) 642-1726 Fax: (212) 768-7796 www.inta.org/adr/index.shtml e-mail: lstigliano@inta.org	CPR Institute for Dispute Resolution Telephone: (212) 949-6490 Fax: (212) 949-8859 www.cpradr.org e-mail: info@cpradr.org
American Intellectual Property Law Association (AIPLA) 2001 Jefferson Davis Highway Suite 203 Arlington, Virginia 22202 Telephone: (703) 415-0780 Fax: (703) 415-0786	
American Arbitration Association (AAA) Headquarters 140 West 51 st Street New York, New York 10020-1203 Telephone: (212) 484-3266 Fax: (212) 307-4387	

Finally, if the parties consider using alternative dispute resolution in this proceeding, the Board would like to know; and if the parties actually engage in alternative dispute resolution, the Board would be interested to learn what mechanism (e.g., arbitration, mediation, etc.) was used and with what general result. Such a statement from the parties is not required but would be helpful to the Board in assessing the value of alternative dispute resolution in Trademark Trial and Appeal Board proceedings.

PROCEEDING SYNOPSIS

**United States Patent and Trademark Office - Trademark Trial and Appeal Board
Trademark Opposition and Cancellation Proceedings Under 15 USC 1063, 1064; 37 CFR 2.101 et. seq.**

FILING OPPOSITION/CANCELLATION

- ❖ Any person (Opposer) may file a Notice of Opposition within 30 days against any mark published under 15 USC 1062(a) in Official Gazette; may oppose in whole or part.¹
- ❖ Time for filing Notice may be extended by written request to TTAB. A first extension for not more than 30 days will be granted upon request. Further extensions may be granted for good cause. Extensions aggregating more than 120 days from pub. date not granted unless consented to by applicant or extraordinary circumstances. 37 CFR 2.102(c). Request should be in triplicate. 37 CFR 2.102(d).
- ❖ Any person (Petitioner) may file a Petition to cancel a registration in whole or in part, but only under conditions set forth in 15 USC 1064.² Geographic limitation will be considered by TTAB only in concurrent use proceeding. 37 CFR 2.99(h), 2.133(c).
- ❖ Opposer/Petitioner is in position of Plaintiff and Applicant/Respondent is Defendant. 37 CFR 2.116(b).
- ❖ Notice/Petition corresponds to complaint in civil action. 37 CFR 2.116(c).

MAILING PROCEDURES

- ❖ Certificate of Mailing or Transmission and Express Mail procedures effective for all papers. 37 CFR 1.8, 1.10.

INSTITUTION OF PROCEEDING; WITHDRAWAL

- ❖ TTAB examines Notice/Petition for formal requirements and sends notification to Defendant, generally within few weeks of filing date. Duplicate copy of Notice/Petition and Exhibits sent to Defendant. 37 CFR 2.105, 2.113.
- ❖ Notice/Petition may be withdrawn without prejudice before Defendant files Answer. 37 CFR 2.106(c), 2.114(c). With written consent of Defendant, later withdrawal may be without prejudice.
- ❖ Defendant may not abandon application or surrender registration without prejudice except with written consent of Plaintiff. 37 CFR 2.135, 2.134.

ANSWER; MOTIONS

- ❖ Time for Answer set by TTAB for 40 days from Notification mailing date.³ Counterclaim should be filed with answer or promptly upon discovery of information supporting Counterclaim. 37 CFR 2.106(b), 2.114(b).

- ❖ Time for reply to Counterclaim set by TTAB for not less than 30 days from TTAB action mailing date. 37 CFR 2.106(b), 2.114(b).
- ❖ Motions may be brought before TTAB in writing and with Brief in support. Brief in opposition thereto, 15 days (30 days for summary judgment motion). Briefs limited to 25 pages. Reply Brief, if filed, 15 days, limited to 10 pages. Reconsideration 30 days after decision; Opposition Brief, 15 days. 37 CFR 2.127. Most motions used in Federal practice are applicable.
- ❖ Motions for Summary Judgment, to Compel, and to Test Sufficiency of Responses to Requests for Admissions, if filed, due before Plaintiff testimony period opens. 37 CFR 2.127(e), 2.120(e), 2.120(h).

TRIAL DATES

- ❖ TTAB issues Order setting opening and close of Discovery and Trial dates. Discovery set for period of 180 days; 30-day Pl. Testimony period closes 90 days after close of Discovery period; 30-day Def. Test. period closes 60 days after Pl. Test. period; 15-day Pl. Rebuttal Test. period closes 45 days after Def. Test. period. 37 CFR 2.120(a), 2.121.
- ❖ In cases where Counterclaim filed, TTAB sets additional time periods for testimony and briefing.

DISCOVERY PERIOD

- ❖ Interrogatories, Reqs. for Prod. Of Docs. & Things, and Reqs. for Adm., if served, must be served by last day of Discovery period. Written Responses within 30 days from date of service of Disc. Reqs. FRCP apply except as otherwise provided. 37 CFR 2.116, 2.120(a). Extension of Time to respond to discovery granted upon cause or by stipulation.⁴
- ❖ Interrogatories limited to proceeding total of 75, counting subparts; additional interrogatories allowed upon motion for good cause or by stipulation. 37 CFR 2.120(d)(1).
- ❖ Discovery Depositions (noticed and taken within Disc. Period) in District where deponent resides or is employed. 37 CFR 2.120(a), 2.120(b). Either party may request designation of witnesses under FRCP 30(b)(6), 31(a).

PLAINTIFF'S TRIAL PERIOD

- ❖ Plaintiff's Testimony-In-Chief. Opens 60 days after Discovery Period closes, and runs for 30 days (refer to Order).

- ❖ Testimony taken by deposition upon oral examination or upon written questions. 37 CFR 2.123, 2.124.
- ❖ Plaintiff serves Transcript of testimony and copies of documentary exhibits on adverse party within 30 days after completion of taking testimony. Certified transcript and exhibits filed with TTAB. 37 CFR 2.125.
- ❖ Notice of Reliance as appropriate on Discovery Deps., Adms. and Int. Answers, with copies of same, due before close of Test. 37 CFR 2.120.⁵
- ❖ Involved app. or reg. files are in evidence for relevant and competent purposes. Publications in gen. Circ. or in libraries, and official records, may be received if appropriate Notice of Reliance is filed and copies submitted within Test. period. 37 CFR 2.122.
- ❖ Motion under 37 CFR 2.132, if filed, due after close of Pl.'s Test. period & before opening of Def.'s.

DEFENDANT'S TRIAL PERIOD

- ❖ Opens 30 days after close of Pl.'s Test. period. Runs for 30 days.
- ❖ Test. taken by deposition upon oral examination or upon written questions. 37 CFR 2.123, 2.124.
- ❖ Notice of Reliance on Discovery responses also due within Test. period, if filed. 37 CFR 2.120.
- ❖ Notice of Reliance on gen. circ. publ. and official records due within Test. period, if filed. 37 CFR 2.122.
- ❖ Def. serves Test. transcript on Pl. within 30 days and files certified transcript and exhibits with TTAB. 37 CFR 2.125.

PLAINTIFF'S REBUTTAL PERIOD

- ❖ Rebuttal Test. period for Pl. opens 30 days after close of Def.'s Test. period and runs for 15 days.
- ❖ Pl. may file Notice of Reliance under 37 CFR 2.120, 2.122, with matter relied on, and take Test. to rebut Def. Test. and other evidence.
- ❖ Pl. serves and files Transcript of Rebuttal Test. and exhibits in accordance with 37 CFR 2.125.

BRIEFS; ORAL HEARING

- ❖ Pl.. Brief due 60 days after Rebuttal period closing.⁶
- ❖ Def. Brief, if filed, due 30 days after Pl. Brief due.
- ❖ Pl. Reply Brief, if filed, due 15 days after Def. Brief due. 37 CFR 2.128.

- ❖ Separate Request for Oral Hearing, if filed, due not later than 10 days after Reply Brief due. 37 CFR 2.129.
- ❖ TTAB Notice of Oral Hearing sent to all parties.

❖ Oral Hearing before panel of at least three TTAB judges. 30 minutes for each party. 37 CFR 2.129.

DECISION; RECONSIDERATION; APPEAL

❖ TTAB Deliberation. Writing of Opinion and Decision in due course.

❖ Request for rehearing, reconsideration or modification, if

filed, due within one month. Brief in opposition due within 15 days. 37 CFR 2.129(c).

❖ Any Appeal from TTAB Decision due within two months of Decision or two months after denial of req. for recon. See especially 37 CFR 2.129(d).

NOTE: Footnotes and TTAB addresses and telephone number appear on the back of this sheet.

FOOTNOTES

- (1) Opposer may be any legal entity including a corporation. Opposer must believe that opposer would be damaged by registration of the mark and state the reasons. 15 USC 1063 and 37 CFR 2.101. Notice of Opposition need not be verified. \$300 required fee for each class for each person opposing. 37 CFR 2.6, 2.101(b). May be signed by attorney. 37 CFR 2.101(b). Duplicate copy including exhibits required. Order status and title copies of pleaded registrations in advance and attach to Notice/Petition or introduce as evidence during Testimony-In-Chief period. 37 CFR 2.122.
- (2) Action, grounds and requirements (Footnote 1) for initiation of Cancellation proceeding are similar to those for an Opposition proceeding and are covered in 15 USC 1064, 1092 and 37 CFR 2.111, 2.112. \$300 required fee per class, per person. Duplicate copy required.
- (3) Except Notice/Petition, each paper must be served on opponent. Statement of service (date and manner) is required. Period to respond to Motions and Discovery Requests is extended 5 days when service is by first-class mail, "Express Mail," or overnight courier. 37 CFR 2.119. Action due on weekend or D.C. holiday can be taken on next business day. 37 CFR 1.7.
- (4) Resetting of time to respond to Discovery Request does not result in extension of Discovery period and subsequent testimony periods unless requested. 37 CFR 2.120(a). All consented extensions of time should be filed in triplicate and list specific dates for all subsequent periods affected.
- (5) Except for 37 CFR 2.122(e) documents, documents produced in response to Requests for Production cannot be made of record by Notice of Reliance alone. 37 CFR 2.120(j)(ii).
- (6) Briefs should be typewritten or printed, double-spaced, in at least pica or eleven-point type, on letter paper (8½ x 11). Three copies of briefs required. Alphabetical index of cases required. Length limit of 55 pages, including table of contents, index of cases, description of record, statement of issues, recitation of facts, argument, and summary. Reply brief 25 pages total. 37 CFR 2.128(b).

ADDRESSES AND TELEPHONE

All papers not requiring a fee should be mailed to:

**Box TTAB No Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513**

NOTE: For papers with fee, use "Box TTAB Fee"

TTAB Office Location and Telephone Number

**2900 Crystal Drive
South Tower, Suite 9B40
Arlington, Virginia 22202-3513**

Telephone: (703) 308-9300