

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
New Balance Athletic Shoe, Inc.,
:
Opposer,
:
v.
:
H. John Campaign,
:
Applicant.
-----X

Opposition No. 122,837
Serial No. 76/024,587

6/7/02

*Please disregard.
H. John Campaign/m d*

BOX TTAB NO FEE
Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

COPY

Attention: David Mermelstein, Esq.

APPLICANT'S MOTION FOR JUDGMENT ON COUNTERCLAIM FOR
CANCELLATION AND TO DISMISS THE NOTICE OF OPPOSITION

Referring to the Official Action mailed May 30, 2002, please be advised for the record, that Applicant never received the Official Action of February 8, 2002, re-setting dates for Opposer's answer to Applicant's counterclaim and for the discovery and testimony periods. However, it is noted from a copy of the Board's order of February 8, 2002 that Opposer Counterclaim Defendant was allowed 30 days from such date to file an answer to the counterclaim and such order was, as the record will show, received by Opposer's attorneys. To date, an answer to the counterclaim has not been served on Applicant. Therefore, judgment on the counterclaim should be entered against Opposer, and Applicant so moves.

OC JUN 7 10 8:53
TRADEMARK TRIAL AND APPEAL BOARD



06-10-2002

U.S. Patent & TMOrc/TM Mail RcptDt. #34

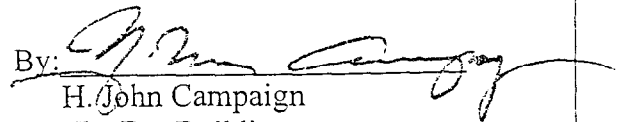
For the record, it is noted from a computer printout of Adversary Proceeding Data from the PTO website that Opposer may have made a motion for an Extension of Time to Answer Applicant's counterclaim on February 11, 2002. However, a copy of such motion has never been served on Applicant, so its contents and fate are unknown, in any event, and are probably irrelevant since nearly four months have transpired.

WHEREFORE, since that the Notice of Opposition is based on the registrations which are the subject of Applicant's counterclaim for cancellation, Applicant again makes a Motion to Dismiss the Notice of Opposition.

Respectfully submitted,

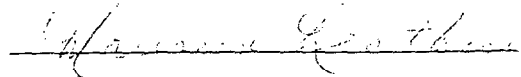
GRAHAM, CAMPAIGN P.C.

Dated: June 7, 2002

By: 
H. John Campaign
The Bar Building
36 West 44th Street
New York, New York 10036
(212) 354-5650

CERTIFICATE OF MAILING

I hereby certify that the foregoing APPLICANT'S MOTION FOR JUDGMENT ON COUNTERCLAIM FOR CANCELLATION AND TO DISMISS THE NOTICE OF OPPOSITION (for Opposition No. 91122837) is being deposited with the U.S. Postal Service as first-class mail, with sufficient postage prepaid, in an envelope addressed to: BOX TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, Attention: David Mermelstein, Esq., this 7th day of June, 2002.



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPLICANT'S MOTION FOR JUDGMENT ON COUNTERCLAIM FOR CANCELLATION AND TO DISMISS THE NOTICE OF OPPOSITION (for Opposition No. 91122837) was served by first class mail, with sufficient postage prepaid, on this 7th day of June, 2002, upon Opposer's attorney of record:

Jeremiah Lynch, Esq.
Lahive & Cockfield, LLP
28 State Street
Boston, Massachusetts 02109

