

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
**Trademark Trial and Appeal Board**  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

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Mailed: August 25, 2004

Opposition No. 91155188

Joe J. Alfaro, Jr.

v.

Guy A. Hoffman

Before Seeherman, Walters, and Bottorff,  
Administrative Trademark Judges.

By the Board:

This case comes before the Board on applicant's motion to strike opposer's amended notice of opposition.

On May 28, 2004, the Board denied opposer's motion for summary judgment and ordered opposer to file an amended notice of opposition within 30 days of the mailing date of the order. On July 1, 2004, opposer filed his amended notice of opposition.

On July 12, 2004, applicant filed motion to strike opposer's amended notice of opposition as untimely. In support thereof, applicant notes that the Board's order

specified that opposer was to file its amended notice of opposition within 30 days of the order, and that opposer failed to do so. Thus, applicant moves to strike the late-filed amended notice of opposition, and to have this proceeding dismissed.

In response, opposer contends, *inter alia*, that the late filing was unintentional, that opposer believed he had a longer period in which to respond to the Board's order, and that the Board should accord opposer the same courtesy that was accorded applicant when the Board considered applicant's late-filed response to opposer's motion for summary judgment.

In view of the dispositive effect of refusing amendment to pleadings already determined to be legally insufficient, applicant's motion to strike the amended notice of opposition is denied.

As a reminder, strict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel. Both parties are advised to obtain legal counsel before going forward in this proceeding.

Opposer's amended notice of opposition is accepted, and applicant is allowed 30 days from the mailing date on

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this order to file an answer to the amended notice of opposition which complies with Rule 8(b) of the Federal Rules of Civil Procedure, discussed in the Board's May 28, 2004 order.

Discovery and trial dates remain as set in the Board's May 28, 2004 order.

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