

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: August 19, 2003

Opposition No. 91156064

Dallas Basketball Limited

v.

Carlisle, John Jacob

Nancy L. Omelko, Interlocutory Attorney:

John Jacob Carlisle ("applicant") filed an application to register the mark "DEEP 3" and design for "shirts, baseball caps, shorts, pants, socks, sweat suits, jackets, sweatshirts, sweatpants, bandanas, shoes, wrist bands, winter sock hats, visors, gloves and scarves." Registration has been opposed by Dallas Basketball Limited ("opposer").

In lieu of an answer, applicant filed (on June 18, 2003) a combined motion for a more definite statement and to suspend. This case now comes up for consideration of this fully briefed combined motion.

Applicant argues that Paragraph No. 5 of the notice of opposition, which reads in its entirety, "Additionally, Opposer contends that Applicant failed to have a bona fide intention to use his mark in commerce when Applicant filed its intent-to-use application" is "so vague and ambiguous

that applicant is unable to prepare a responsive pleading or fairly formulate its defense"; and asks that opposer be required to amend its pleading to provide more detailed information.

In response, opposer argues that the notice of opposition, as it stands, meets the notice requirement of the Federal Rules of Civil Procedure; and that applicant should be able to admit or deny each of the allegations in the notice of opposition without any further detailed information from opposer.

We agree with opposer. A notice of opposition must include (1) a short and plain statement of the reason(s) why opposer believes it would be damaged by the registration of the opposed mark (i.e., opposer's standing to maintain the proceeding), and (2) a short and plain statement of one or more grounds for opposition. See 37 CFR § 2.104(a); and *Consolidated Natural Gas Co. v. CNG Fuel Systems, Ltd.*, 228 USPQ 752 (TTAB 1985).

The elements of a claim should be stated simply, concisely, and directly. See FRCP 8(e)(1). However, the pleading should include enough detail to give the defendant fair notice of the basis for each claim. See *McDonnell Douglas Corp. v. National Data Corp.*, 228 USPQ 45 (TTAB 1985). See also *Harsco Corp. v. Electrical Sciences Inc.*, 9 USPQ2d 1570 (TTAB 1988), and Beth A. Chapman, TIPS FROM THE

TTAB: Amending Pleadings: The Right Stuff, 81 Trademark Rep. 302 (1991).

After a careful review of the notice of opposition in this case, we find that the allegations contained in Paragraph No. 5 are sufficient for pleading that applicant did not have a bona fide intention to use the mark in commerce when he filed his application.

In view of the foregoing, applicant's motion for a more definite statement is denied. Applicant's motion to suspend is granted to the extent that applicant is allowed until **thirty days** from the mailing date hereof to submit its answer to the notice of opposition. Furthermore, applicant is allowed until **twenty-five days** to respond to any outstanding discovery requests. Otherwise, dates remain as set in the Board's institution order of April 23, 2003.