

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

Baxley

Mailed: July 16, 2003

Opposition No. 91/156,531

Verilux, Inc.

v.

Hahn, Linaya Gail

**Andrew P. Baxley, Interlocutory Attorney:**

The statement of use that applicant filed on February 27, 2003 in connection with involved application Serial No. 76/396,211 is premature inasmuch as it was filed after the examining attorney approved the involved mark for publication and prior to the issuance of a notice of allowance.<sup>1</sup> See Trademark Rules 2.76(a) and 2.88(a); *In re Sovran Financial Corp.*, 25 USPQ2d 1537 (Comm'r Pats. 1991); and TMEP Section 1104.03(b).

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<sup>1</sup> The involved application was approved for publication on November 8, 2002 and was published for opposition on January 14, 2003. On January 29, 2003 by certificate of mailing, opposer filed a request to extend time to oppose to not later than April 14, 2003. See Patent and Trademark Rule 1.8. The Board granted that request on February 10, 2003. On April 14, 2003 by certificate of mailing, opposer filed a request to extend time to oppose to not later than May 14, 2003. The Board granted that request on May 6, 2003. Opposer timely filed its notice of opposition on May 13, 2003. The Board instituted this proceeding and forwarded a copy of the notice of opposition to applicant on June 6, 2003.

**Opposition No. 156,531**

Accordingly, the statement of use will receive no consideration and the filing fee that applicant submitted therefor will be refunded.

Discovery and trial dates remain as set. Applicant's answer remains due in accordance with the Board's order instituting this proceeding.