

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

Mailed: January 25, 2007

Opposition No. 91160143

AT&T CORP.

v.

AmericaAt.com, LLC

Linda Skoro, Interlocutory Attorney

On October 24, 2006 and November 1, 2006 the Board received two separate communications from applicant. In the first communication applicant, AmericaAt.com LLC, stated it had dismissed its attorney¹, it had received a fax coversheet from former counsel forwarding discovery requests, and that applicant needed an extension of seven days to answer the notice of opposition. Applicant also indicated it was going to hire new counsel. This correspondence was signed by Charles Haifley². The second

¹ Counsel for applicant has not filed a withdrawal, but it would appear that Mr. Haifley will be representing applicant or hiring new counsel. So the law firm of Ellsworth, Moody & Bennion, 7881 W. Charleston Blvd., Suite 210, Las Vegas, NV 89117 no longer represents applicant.

² Mr. Haifley did not provide in what capacity he functions for applicant, such as a corporate officer or owner. Also, looking at both pieces of correspondence, it is not clear at which address the Board is to send notices. There is one address for the applicant, AmericaAt.com, LLC, 2250 E. Tropicana #449, Las Vegas, NV 89119; and at the top of its "answer" Mr. Haifley

communication forwarded what purported to be an answer to the notice of opposition, it was miscaptioned indicating Charles Haifley was the applicant and provided the serial number of the underlying application rather than the opposition number. There also was no certificate of service on opposing counsel.

Applicant is advised that its former counsel already filed an answer to the notice of opposition on July 18, 2006. It appears that what former counsel was forwarding to applicant were discovery requests that needed to be answered, documents produced and requests for admissions responded to. These items needed to be provided to opposing counsel, not the Board. Mr. Haifley misunderstood this to mean an answer to the notice of opposition. In that it appears Mr. Haifley may be representing AmericaAt.com as an officer and pro se, the following information is hereby provided.

Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which applicant may subsequently file in this proceeding, including its answer to

indicated he was an individual at 58 East Santa Anita Avenue, Burbank, CA. As AmericanAt.com is the applicant of record, the Board has entered the Las Vegas address into its records.

the notice of opposition, must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

It should also be noted that while Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

It is recommended that applicant become thoroughly familiar with the Trademark Rules of Practice and also with the Trademark Trial and Appeal Board's Manual of Procedure (2d ed. rev. 2004). Both are available on the office website at www.uspto.gov.

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.

Because it is apparent that Mr. Haifley was unaware of the nature of the required responses, trial dates are being reset as indicated below. Applicant has THIRTY days from

the mailing date of this order to submit appropriate discovery responses to opposer's counsel.³

DISCOVERY PERIOD TO CLOSE: **5/15/2007**

30-day testimony period for party **8/13/2007**
in position of plaintiff to close:

30-day testimony period for party **10/12/2007**
in position of defendant to close:

15-day rebuttal testimony period to close: **11/26/2007**

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. Trademark Rule 2.125.

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

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³ The Board notes opposer's motion to compel filed January 19, 2007. This motion will be held in abeyance to allow applicant the thirty days to respond to all outstanding discovery as set forth in this order. Should applicant fail to comply with this order with appropriate discovery responses, or an appropriate response to the motion to compel, opposer should notify the Board and the motion will be granted as uncontested.