

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

Mailed: March 1, 2011

Opposition No. **91197856**

T-D Innovations, LLC

v.

American Beer Company, Inc.

Cheryl S. Goodman, Interlocutory Attorney:

On January 8, 2011, applicant filed a motion to dismiss. On February 17, 2011, applicant advised of the failure of service of the motion to dismiss. The United States Postal Service returned the motion as undeliverable mail for reasons unknown. (A copy of the envelope was provided with applicant's filing).

Applicant has not indicated in its filing, after receipt of the returned mail, whether it contacted counsel directly to confirm its mailing address, or to determine whether counsel would accept service in this particular instance, via other means e.g., by facsimile or e-mail due to apparent problems in receiving mail from the United States Postal Service.

No change of address of opposer's counsel has been filed with the Board, and the Board's suspension order has

not been returned as undeliverable. Therefore, the Board presumes that the address of opposer's counsel is accurate.¹

In view of the returned service copy, and to avoid any subsequent claims by opposer that it was disadvantaged by nonreceipt of the motion to dismiss, opposer is allowed until TWENTY DAYS from the mailing date of this order to file a response to the motion to dismiss, accessible on TTABVUE at <http://ttabvue.uspto.gov/ttabvue/ttabvue-91197856-OPP-4.pdf>. In the event no response to the motion to dismiss is received, the motion to dismiss will be granted as conceded. Trademark Rule 2.127(a).

Proceedings herein remain otherwise suspended.

If opposer's counsel's mailing address has changed, opposer's counsel should file updated correspondence information with the Board. See TBMP Section 117.07.

¹ Presumably if the Board's suspension order was received via U.S. mail and via e-mail, opposer's counsel would have checked TTABVUE if no service copy of the motion to dismiss had been received and advised applicant of same. It is unclear why counsel in this case have not been in communication with each other regarding receipt/nonreceipt of the motion to dismiss.