

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

Mailed: December 14, 2011

Opposition No. 91202151

Pacific Sunwear of California

v.

Tiffany Beale

Cheryl S. Goodman, Interlocutory Attorney:

Pursuant to Fed. R. Civ. P. 26(f) and Trademark Rules 2.120(a)(1) and (2), the parties to this proceeding conducted a discovery conference at 4:30 pm (EST) on Tuesday, December 13, 2011. Board participation was requested via telephone by applicant on December 6, 2011.

Participating in the conference were Carol Been and Tara Reedy Sliva, counsel for opposer, and Tiffany Beale, applicant. Present for the Board was the above-identified interlocutory attorney. This order memorializes generally what transpired at the conference.

General Information

Service of Papers

Trademark Rule 2.119 requires a party filing any paper with the Board during the course of a proceeding to serve a copy on its adversary, unless the adversary is represented by counsel, in which case, the copy must be served on the

adversary's counsel. Applicant has complied with the service requirement in filing her answer.

Electronic filing recommended

It is recommended that the Board's electronic filing system ESTTA be used for all papers filed with the Board.¹ The parties should note that the consent motions to extend and suspend form in ESTTA should not be used until after the initial disclosure deadline has passed as the forms will not calculate the discovery, disclosure and trial schedule properly. The parties should use the general form motion option, and file a disclosure, discovery and trial schedule generated by the parties.

E-mail service, stipulation

The parties did stipulate to e-mail service in the discovery conference. It was noted that no additional response time is provided for papers served electronically. The parties were advised to adjust their spam filters to accept e-mail from their adversary and the Board.

Applicant's e-mail address/telephone

Applicant advised that her current e-mail address is tiffanybeale513@yahoo.com and that her phone number is 571-241-9914. The Board advised applicant that she should

¹ The Board's automated consent extension and suspension motions should not be utilized until after service of initial disclosures. Please read the alerts on ESTTA for further information. If the automated motion does not provide the

update her e-mail address in the Board proceeding so that any communications sent by e-mail from the Board are received. It is the responsibility of the applicant to maintain updated contact information including, address, telephone and e-mail.

Standard protective order

The Board advised the parties of the imposition of the Board's standard protective order at the commencement of these proceedings and that pro se parties are limited in their access to information designated as trade secret and commercially sensitive under the Board's standard protective order. See TBMP Section 412 (3d ed. 2011) for more information regarding the Board's protective order.² Should the parties desire to modify the protective order, they should file such modified protective order (signed) with the Board.

Amended Answer

Applicant desired to amend her answer. The motion was granted. Applicant is allowed until FIFTEEN DAYS from the discovery conference date to file (and serve) her amended answer.

parties with the desired dates, a general motion option should be used with the desired trial schedule set forth in an attachment.

² The standard protective order is viewable at <http://www.uspto.gov/trademarks/process/appeal/guidelines/stndagmnt.jsp>.

Disclosures

The Board reviewed the required disclosures in this case: initial, expert and pretrial and advised the parties that formal discovery (e.g., depositions, request for production, requests for interrogatories, and requests for admissions) cannot occur until after service of initial disclosures.³ Additionally, a motion for summary judgment cannot be filed prior to service of initial disclosures unless it is based on preclusion or lack of jurisdiction of the Board. Initial disclosures need not be filed with the Board unless they are filed in connection with a discovery motion, motion for summary judgment or notice of reliance (if documents provided as initial disclosures).⁴

Other Options for Settlement/ACR

The Board advised the parties of other options available to settle this dispute including mediation and arbitration, discussing, in particular, the availability of Accelerated Case Resolution. Accelerated Case resolution materials and suggested "tracks" are available at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

The parties are also referred to the Board Manual of

³ Information regarding disclosures can be located in the Board Manual of Procedure (TBMP) at Chapters 400 and Chapter 700. If the parties are interested in making more extensive disclosures, the parties are referred to the Miscellaneous Changes to TTAB Rules, January 17, 2006, located at <http://www.uspto.gov/trademarks/process/appeal/index.jsp>.

Procedure (TBMP) Chapters 500, and 700 regarding Accelerated Case Resolution.

Telephone Conferences with the Board

The Board advised the parties of the availability of telephone conferences (with the interlocutory attorney) to expedite the resolution of disputes in the case.

The parties were not interested in suspension/extension for settlement. The Board informed the parties of their obligation to discuss the other topics for discussion at the discovery conference when Board participation concluded.

Pro Se Information

Applicant is reminded that she will be expected to comply with all applicable Rules and Board practices during the remainder of this case. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure and Federal Rules of Evidence govern the conduct of this opposition proceeding. Applicant should note that Patent and Trademark Rule 11.14 permits any person or legal entity to represent him/herself in a Board proceeding, though it is generally advisable for those unfamiliar with the applicable rules to secure the services of an attorney familiar with such matters.

⁴ Similarly expert disclosures and pretrial disclosures need not be filed with the Board unless the subject of a motion.

If applicant does not retain counsel, then applicant will have to familiarize herself with the rules governing this proceeding. The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). The CFR and the Federal Rules of Civil Procedure, are likely to be found at most law libraries, and may be available at some public libraries or online. The Trademark Rules are also located at [uspto.gov](http://www.uspto.gov). Finally, the Board's manual of procedure (TBMP) will be helpful. On the World Wide Web, applicant may access most of these materials by logging onto <http://www.uspto.gov/> and making the connection to trademark materials.

Files of TTAB proceedings can now be examined using TTABVue, accessible at <http://ttabvue.uspto.gov>. After entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format.

The third edition (2011) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at http://www.uspto.gov/trademarks/process/appeal/Preface_TBMP.jsp.

Dates in this proceeding remain as set. See Board's order dated October 18, 2011.