

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

CME

Mailed: March 10, 2014

Opposition No. 91212792

META4 Spain, S.A.

v.

Protobrand Sciences, Inc.

Christen M. English, Interlocutory Attorney:

On January 27, 2014, opposer filed a motion to dismiss applicant's counterclaims and a separate motion to strike paragraphs 6-14 of applicant's affirmative defenses.¹ In response to the motion, on February 11, 2014, applicant filed an amended answer and counterclaims. Applicant's amended answer and counterclaims was filed as a matter of course, and is accordingly accepted and is now applicant's operative pleading in this proceeding. See Fed. R. Civ. P. 15(a)(1)(B); TBMP § 507.01.

Because opposer's motions to dismiss and strike are based on applicant's original answer and counterclaims, which by this order has been superseded by the amended answer and counterclaims, opposer's motion to dismiss and strike are moot and will be given no further consideration.

¹ The Board discourages piecemeal motions and responses, which confuse the issues, and the parties are cautioned against using such an approach in the future.

Notwithstanding the foregoing, applicant did not submit sufficient fees for all of its counterclaims, which concern each of the classes in Registration Nos. 3369502 and 3573292, and Registration No. 4372302. The fees submitted by applicant have been applied against (i) Registration No. 3369502, Classes 9 and 16, (ii) Registration No. 3573292, Class 9, and (iii) Registration No. 4372302, which covers only Class 35. See Trademark Rule 2.111. Applicant is allowed **until TEN (10) days from the mailing date of this order** to submit the proper fees for the remaining classes in Registration Nos. 3369502 and 3573292, failing which applicant's counterclaims will proceed only with respect to Registration No. 3369502 in Classes 9 and 16, Registration No. 3573292 in Class 9, and Registration No. 4372302.

Proceedings are otherwise suspended.
