

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Baxley

Mailed: December 16, 2016

Opposition No. 91226783

Finca La Celia S.A.

v.

Destiladora Del Valle de Tequila S.A de C.V.

Andrew P. Baxley, Interlocutory Attorney:

The October 10, 2016 order is corrected to reflect that Michael D. Paul and the attorneys of Gunn Lee & Cave, PC no longer represent Applicant in this proceeding.

The Board notes the statement in Applicant's attorney's withdrawal (filed October 3, 2016) as counsel that Applicant will represent itself herein. While Patent and Trademark Rule 11.14 permits any legal 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 a Board 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.

In this proceeding, the parties should review the Trademark Board Manual of Procedure (TBMP) and the Trademark Rules of Practice, online at <http://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board-ttab>. The Board expects all parties appearing before it, whether or not they are represented by counsel, to comply with the Trademark Rules of Practice and

where applicable, the Federal Rules of Civil Procedure, online at <http://www.law.cornell.edu/rules/frcp>.

Trademark Rules 2.119(a) and (b) state that every submission filed in this proceeding 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 submission that Applicant files in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made, e.g., by mail. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

Applicant is further advised that it may not use certificate of mailing procedure on submissions that it files with the Board by mail from outside of the United States. *See* Trademark Rule 2.197; TBMP § 110. Accordingly, applicant is urged to file submissions herein through the Board's Electronic System for Trademark Trials and Appeals (ESTTA) database, available online at <http://estta.uspto.gov>.

Proceedings herein are resumed. Dates are reset as follows.

Expert Disclosures Due	3/15/2017
Discovery Closes	4/14/2017
Plaintiff's Pretrial Disclosures Due	5/29/2017
Plaintiff's 30-day Trial Period Ends	7/13/2017
Defendant's Pretrial Disclosures Due	7/28/2017
Defendant's 30-day Trial Period Ends	9/11/2017
Plaintiff's Rebuttal Disclosures Due	9/26/2017
Plaintiff's 15-day Rebuttal Period Ends	10/26/2017

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129. If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.

NOTICE: CHANGES TO THE TRADEMARK TRIAL AND APPEAL BOARD (“BOARD”) RULES OF PRACTICE WILL BE EFFECTIVE JANUARY 14, 2017
The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7 2016, at 81 F.R. 69950. It sets forth **several** amendments to the rules that govern *inter partes* (oppositions, cancellations, concurrent use) and ex parte appeal proceedings.

For complete information, the parties are referred to:

- The Board’s home page on the uspto.gov website: <http://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board-ttab>
- The final rule: <http://www.uspto.gov/sites/default/files/documents/81%20FR%2069950.pdf>
- A chart summarizing the affected rules and changes: http://www.uspto.gov/sites/default/files/documents/RulesChart_01_14_17.pdf

For **all** proceedings, including those **already in progress on January 14, 2017**, some of the changes are:

- All pleadings and submissions must be filed through ESTTA. Trademark Rules 2.101, 2.102, 2.106, 2.111, 2.114, 2.121, 2.123, 2.126, 2.190 and 2.191.
- Service of all papers must be by email, unless otherwise stipulated. Trademark Rule 2.119.
- Response periods are no longer extended by five days for service by mail. Trademark Rule 2.119.
- Deadlines for submissions to the Board that are initiated by a date of service are 20 days. Trademark Rule 2.119. Responses to motions for summary judgment remain 30 days. Similarly, deadlines for responses to discovery requests remain 30 days.
- All discovery requests must be served early enough to allow for responses prior to the close of discovery. Trademark Rule 2.120. Duty to supplement discovery responses will continue after the close of discovery.
- Motions to compel initial disclosures must be filed within 30 days after the deadline for serving initial disclosures. Trademark Rule 2.120.
- Motions to compel discovery, motions to test the sufficiency of responses or objections, and motions for summary judgment must be filed prior to the first pretrial disclosure deadline. Trademark Rules 2.120 and 2.127.
- Requests for production and requests for admission, as well as interrogatories, are each limited to 75. Trademark Rule 2.120.

- Testimony may be submitted in the form of an affidavit or declaration. Trademark Rules 2.121, 2.123 and 2.125
- New requirements for the submission of trial evidence and deposition transcripts. Trademark Rules 2.122, 2.123, and 2.125.
- For proceedings **filed on or after January 14, 2017**, in addition to the changes set forth above, the Board's notice of institution constitutes service of complaints. Trademark Rules 2.101 and 2.111.

This is only a summary of the significant content of the Final Rule. All parties involved in or contemplating filing a Board proceeding, regardless of the date of commencement of the proceeding, should read the entire Final Rule.