

ESTTA Tracking number: **ESTTA754470**

Filing date: **06/24/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91226857
Party	Defendant POA Group LLC
Correspondence Address	JOHN G TUTUNJIAN TUTUNJIAN & BITETTO PC 401 BROADHOLLOW ROAD SUITE 402 MELVILLE, NY 11747 UNITED STATES trademarks@tb-iplaw.com, john@tb-iplaw.com, elliot@tb-iplaw.com
Submission	Reply in Support of Motion
Filer's Name	Elliot W. Lipins
Filer's e-mail	elliot@tb-iplaw.com, john@tb-iplaw.com, trademarks@tb-iplaw.com
Signature	/Elliot W. Lipins/
Date	06/24/2016
Attachments	Reply and Declaration.pdf(310573 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----		
TAO LICENSING LLC	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91226857
	)	
POA GROUP LLC,	)	
	)	
Applicant.	)	
	)	
-----		

United States Patent and Trademark Office  
 Trademark Trial and Appeal Board  
 P.O. Box 1451  
 Alexandria, Virginia 22313-1451

**APPLICANT’S REPLY IN FURTHER SUPPORT OF ITS  
MOTION TO AMEND APPLICATION**

The present brief along with the Declaration of John G. Tutunjian is submitted by Applicant POA Group LLC (“POA”) in reply to Opposer Tao Licensing LLC’s (“TL’s”) submission in opposition to POA’s Motion to Amend.

## **I. INTRODUCTION**

The Trademark Trial and Appeal Board (“TTAB”) issued an Order dated June 6, 2016 concerning this motion. However, TL’s Response in Opposition to Applicant’s Motion to Amend its Application dated June 6, 2016 (“TL’s Response”) contains several procedural and factual defects that should be addressed.

## **II. ARGUMENT**

1. TL’s Response should not be considered in view of the Order issued by the Trademark Trial and Appeal Board

TL’s Response to POA’s Motion to Amend was filed subsequent to the issuance of the Trademark Trial and Appeal Board’s Order which held that consideration of POA’s proposed amendments will be deferred and will not be considered until the rendering of a final decision or summary judgment. Notably, TL notes in its own argumentation that “the Board has already decided to defer judgment until its final decision or upon summary judgment”. *See* TL’s Response, p. 4. Therefore, the issues raised in TL’s Response have been mooted by the TTAB’s Order. Accordingly, TL’s submission of its opposition to the motion after entry of the Order is improper and should not be considered.

Notwithstanding the preceding, with respect to the argumentation submitted by TL concerning the proposed amendments, POA submits that the Trademark Trial and Appeal Board may consider the propriety of the proposed amendments on its own without consideration of such arguments. POA notes that it is filing simultaneously herewith a Second Motion to Amend


which is identical to the initial motion except for changes within the declaration to ensure that the declaration includes the requisite intent to use language.

2. TL's Certificate of Service is False and Improper

In TL's Response, TL's counsel certified that a true and correct copy of TL's Response was served by e-mail on John G. Tutunjian, Applicant's counsel of record on June 6, 2016. In fact, Mr. Tutunjian did not receive a service copy of TL's Response via e-mail. See Declaration of John G. Tutunjian, dated June 24, 2016 ("Tutunjian Dec."), ¶3. Moreover, the parties have not mutually agreed to accept service by electronic transmission as required by 37 C.F.R. §2.119. Tutunjian Dec., ¶4. Therefore, e-mail service would not have been proper even if such service was made as certified by TL's counsel.

Respectfully submitted,  
TUTUNJIAN & BITETTO, P.C.

June 24, 2016  
Melville, New York


By:   
John G. Tutunjian  
Elliot W. Lipins  
Attorneys for Applicant  
Tutunjian & Bitetto, P.C.  
401 Broadhollow Road, Suite 402  
Melville, New York 11747  
(631) 844-0080 (p)  
(631) 844-0081 (f)

CERTIFICATE OF SERVICE

It is hereby certified that on June 24, 2016, a true copy of the foregoing Reply Brief in Further Support of Motion to Amend and Declaration of John G. Tutunjian is being served by first-class mail, postage prepaid, to attorneys for Opposer, at the following address:

Howard J. Shire, Esq.  
Kenyon & Kenyon LLP  
One Broadway  
New York, NY 10004

By:

  
\_\_\_\_\_  
Elliot Lipins

