

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

JMW

Mailed: August 11, 2017

Opposition No. 91227868

Health New England, Inc.

v.

Trinity Health Corporation

**Katie W. McKnight,
Interlocutory Attorney:**

On July 28, 2017, Applicant filed a stipulated amendment to its application Serial No. 86779873. By the proposed amendment, Applicant seeks to amend the description of the mark as follows:

From: The mark consists of a design of a flower featuring four petals. The upper right, lower right, and lower left petals are presented in purple. The upper left petal is presented in green. The flower design resembles a cross. To the right of the flower design is the wording "TRINITY HEALTH" in gray. The wording "NEW ENGLAND" is in gray below "TRINITY HEALTH" and in smaller print.

To: The mark consists of a design of a flower featuring four petals. The upper right, lower right, and lower left petals are presented in purple. The upper left petal is presented in green. The flower design resembles a cross. To the right of the flower design is the wording "Trinity Health" in gray. The wording "Of New England" is in purple below "Trinity Health" and in smaller print that is not more than 55% of the font size of "Trinity Health."

Applicant also seeks to amend the drawing of the mark as follows:

From:



To:



Inasmuch as the amendments to the description of the mark and the drawing do not materially alter the mark, as required by Trademark Rule 2.72(b), and because Opposer consents thereto, the amendments are approved and entered. Trademark Rules 2.37, 2.52(b), 2.72 (b) and 2.133(a); *see also* TMEP § 807.14.

If the amendment resolves this proceeding, Opposer is allowed until **thirty days** from the mailing date of this order to file a withdrawal of the opposition, failing which the opposition will go forward on the application as amended. *See* Trademark Rule 2.106(c). If no response is filed, proceedings will be resumed and dates reset, as appropriate.

Proceedings otherwise remain **suspended** pending Opposer's response to this order.

Recent Rules Change

CHANGES TO THE TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE BECAME EFFECTIVE JANUARY 14, 2017

The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7, 2016, at 81 Fed. Reg. 69950. It sets forth several amendments to the rules that govern *inter partes* (oppositions, cancellations, concurrent use) and *ex parte*

appeal proceedings. A correction to the final rule was published on December 12, 2016, at 81 Fed. Reg. 89382.

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>
- The correction to the final rule:
<http://www.uspto.gov/sites/default/files/documents/81%20FR%2089382.pdf>
- A chart summarizing the affected rules and changes:
<http://www.uspto.gov/sites/default/files/documents/Chart%20Summarizing%20Rule%20Changes%2012-9-16.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 made by email, unless otherwise stipulated. Trademark Rule 2.119.
- Response periods are no longer extended by five days for service by first-class mail, Priority Mail Express®, or overnight courier. 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.

This is only a summary of the significant content of the Final Rule. All parties involved in a Board proceeding should read the entire Final Rule.