

UNITED STATES PATENT AND TRADEMARK OFFICE  
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RSC

November 12, 2021

Opposition No. 91228289

*Padraic C. McFreen*

*v.*

*Mitac International Corp.*

**Rebecca Stempien Coyle, Interlocutory Attorney:**

On September 27, 2021, the Board denied Opposer's motion for judgment on the pleadings.<sup>1</sup> On October 17, 2021, Opposer filed a Motion to Clarify and Motion for Telephonic Hearing, moving for clarification of the September 27, 2021 order and requesting suspension of the proceedings.<sup>2</sup> On October 19, 2021, Applicant filed its opposition to the motion arguing that Opposer has failed to demonstrate good cause because he does not identify any purported errors or ambiguity in the order.<sup>3</sup> Opposer did not file a reply.

Generally, the premise underlying a motion for reconsideration, modification or clarification under Trademark Rule 2.127(b) is that, based on the facts before it and the prevailing authorities, the Board erred in reaching the order or decision it issued.

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<sup>1</sup> 90 TTABVUE.

<sup>2</sup> 91 TTABVUE.

<sup>3</sup> 92 TTABVUE.

*See* TBMP § 518. Every motion submitted to the Board must contain a full statement of the grounds and embody, or be accompanied by, a brief. Trademark Rule 2.127(a); TBMP § 502.02.

In regard to requests for an oral hearing on a motion, it is the practice of the Board to deny such a request unless, in the opinion of the Board, an oral hearing is necessary to clarify the issues to be decided. *See* TBMP § 502.03. A party's arguments on a motion should be presented in its briefs thereon. Thus, the Board rarely grants a request for an oral hearing on a motion. In contrast, a telephone conference with a Board attorney may be used in lieu of a brief to present arguments in support of or opposition to a motion. *Id*; *see also* TBMP § 502.06(a). The Board retains discretion to decide whether a matter can and should be heard or disposed by telephone. However, the Board will not decide by telephone conference any motion that is potentially dispositive, that is, a motion which, if granted, would dispose of a Board proceeding. TBMP § 502.06(a).

Here, Opposer's motion fails to identify any errors or ambiguities in the Board's September 27, 2021 order. Moreover, inasmuch as the Board's September 27, 2021 order addressed Opposer's motion for judgment on the pleadings, which is a potentially dispositive motion, any motion for reconsideration, modification or clarification thereof would be inappropriate.

Accordingly, Opposer's motion to clarify and motion for telephonic hearing is **denied**.

However, in view of the posture of this proceeding, as well as the filings to date, the Board finds that it would be useful for the parties to participate in a telephone conference with the Board to discuss pretrial and trial procedure. *See* Trademark Rule 2.120(j). Accordingly, the parties should promptly confer with one another to determine a mutually agreeable date and time for the conference, such that the conference occurs by December 3, 2021.<sup>4</sup> The Board will contact the parties to schedule the conference.

Proceedings are otherwise **suspended**.<sup>5</sup> The Board will reset dates following the conference as appropriate.

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<sup>4</sup> The Board contemplates the conference will last between fifteen and thirty minutes. During the conference the Board will not entertain any arguments regarding the merits of this proceeding.

<sup>5</sup> The Board considers proceedings to have been suspended as of the filing of Opposer's motion.