

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

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Mailed: December 20, 2016

Opposition No. 91229003

Seaside Community Development Corp.

v.

Wineforces

Jennifer Krisp, Interlocutory Attorney:

On November 23, 2016, Opposer/Counterclaim Defendant filed a motion to dismiss the counterclaims and to dismiss or strike the affirmative defenses asserted by Applicant/Counterclaim Plaintiff.

On December 12, 2016, Applicant/Counterclaim Plaintiff filed an amended answer to the notice of opposition, affirmative defenses, and counterclaims.

Pursuant to Fed. R. Civ. P. 15(a)(1)(B), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rules 2.107 and 2.115; TBMP § 507.01.

Inasmuch as the amended answer, affirmative defenses and counterclaim was filed within 21 days after service of Opposer/Counterclaim Defendant's motion under

Fed. R. Civ. P. 12(b)(6), it is now Applicant/Counterclaim Plaintiff's operative pleading in this proceeding.

Opposer/Counterclaim Defendant's November 23, 2016 motion to dismiss is now moot.

Opposer/Counterclaim Defendant is allowed until **THIRTY DAYS** from the mailing date of this order to file an answer to the counterclaim.

Disclosure, conferencing, discovery, and trial dates are reset as follows:

Deadline for Required Discovery Conference	2/27/2017
Discovery Opens	2/27/2017
Initial Disclosures Due	3/29/2017
Expert Disclosures Due	7/27/2017
Discovery Closes	8/26/2017
Plaintiff's Pretrial Disclosures	10/10/2017
30-day Testimony Period for Plaintiff to Close	11/24/2017
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	12/9/2017
30-day Testimony Period for Defendant and Plaintiff in the Counterclaim to Close	1/23/2018
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	2/7/2018
30-day Testimony Period for Defendant in the Counterclaim and Rebuttal Testimony for Plaintiff to Close	3/24/2018
Counterclaim Plaintiff's Rebuttal Disclosures Due	4/8/2018
15-day Rebuttal Period for Plaintiff in the Counterclaim to Close	5/8/2018
Brief for Plaintiff Due	7/7/2018
Brief for Defendant and Plaintiff in the Counterclaim Due	8/6/2018
Brief for Defendant in the Counterclaim and Reply Brief, if any, for Plaintiff Due	9/5/2018
Reply Brief, if any, for Plaintiff in the Counterclaim Due	9/20/2018

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.

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.