

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

Mailed: September 18, 2017

Opposition No. 91230351

*CF Dominicana Cigars, Inc.*

*v.*

*Cigar Bella*

**By the Trademark Trial and Appeal Board:**

On August 4, 2017, the Board allowed Opposer CF Dominicana Cigars, Inc. (“CF Dominicana”) until August 24, 2017 to file and serve an amended notice of opposition that clearly sets forth CF Dominicana’s standing to maintain this proceeding, and until August 31, 2017 to properly file and serve a response to Applicant’s motion for summary judgment, failing which Applicant’s motion will be granted as conceded and this proceeding will be dismissed with prejudice. The Board further ordered Mr. Dennis Briganti, representing CF Dominicana *pro se*, to refrain from any further attempt to communicate with Board personnel by any means other than electronic filings through ESTTA for the remainder of the pendency of these proceedings, warning that “[a]ny further attempt by Mr. Briganti to communicate in any other manner with any Board personnel during the pendency of these proceedings may result in entry of sanctions, including dismissal of the notice of opposition.” *See* 20 TTABVUE 6.

On August 18, 2017, CF Dominicana filed an ESTTA cover sheet entitled “Appearance of Counsel/Power of Attorney” and an attached letter granting Carol LoPinto, James Italia, Esq. and Steve Bowers, Esq. “permission to communicate with the TTAB regarding matters to this opposition.” CF Dominicana’s August 18, 2017 submission of an ESTTA cover sheet entitled “Motion to Extend” does not include any such motion and therefore will receive no consideration. *See* TBMP § 110.01 (June 2017). Mr. Bowers then filed a motion to extend time to respond to the Board’s August 4, 2017 order on August 21, 2017.<sup>1</sup>

However, on September 13, 2017 Mr. Bowers filed via ESTTA a request that the Board remove “all current parties from correspondence,” indicating that only Mr. Briganti is entitled to represent CF Dominicana.<sup>2</sup> Mr. Bowers also states that the August 21, 2017 motion to extend “was filed with my name used in error by a para-legal assigned to the project.” The Board recognizes that CF Dominicana now represents itself *pro se* through Mr. Briganti as its authorized representative.<sup>3</sup>

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<sup>1</sup> The filing fails to indicate proof of service on Applicant via email, signed by counsel or other authorized representative, as required by Trademark Rule 2.119. Inasmuch as Applicant has opposed the motion to extend, we presume that Applicant was able to view a copy of the motion on TTABVUE. *See* 24 TTABVUE (September 8, 2017).

<sup>2</sup> Again, this filing fails to indicate proof of service on Applicant via email, signed by counsel or other authorized representative, as required by Trademark Rule 2.119. In order to expedite this matter, Applicant is directed to the following URL where it may view a copy of the filing: <http://ttabvue.uspto.gov/ttabvue/v?pno=91230351&pty=OPP&eno=25>.

<sup>3</sup> Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is expected of all parties before the Board, **whether or not they are represented by counsel**. *See McDermott v. San Francisco Women’s Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006).

Individuals who are not attorneys, and who are not entitled under Patent and Trademark Rule 11.14 to practice before the Office in trademark cases, will not be permitted to represent a party in a proceeding before the Board, and may not file submissions on behalf of the party. TBMP §§ 114.06, 117.08. Inasmuch as CF Dominicana's motion to extend was filed by a paralegal who used an attorney's name "in error," and who is not entitled to represent CF Dominicana, CF Dominicana's August 21, 2017 motion to extend will receive no consideration. *See id.* As a result, CF Dominicana has not timely responded to the Board's order directing it to file and serve an amended notice of opposition that properly sets forth CF Dominicana's standing.<sup>4</sup> Nor has CF Dominicana complied with the Board order to respond to Applicant's motion for summary judgment. As noted in the Board's order of August 4, 2017, failure to respond to the motion for summary judgment would result in such motion being "granted as conceded" and this proceeding "dismissed with prejudice." Accordingly, Applicant's motion for summary judgment is granted as conceded and CF Dominicana's opposition is dismissed with prejudice.

The time for filing an appeal of this decision is governed by Trademark Rule 2.145, 37 C.F.R. § 2.145. *See also*, TBMP §§ 901-903. Should CF Dominicana file a request for reconsideration in lieu of an appeal, then CF Dominicana, and Dennis Briganti, are ordered to show cause why the opposition should not be dismissed as a sanction

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<sup>4</sup> Opposer's September 18, 2017 filing is untimely and fails to include proof of service of a copy of the submission upon Applicant, as required by Trademark Rule 2.119(a), and therefore will receive no consideration.

for Mr. Briganti's violation of the Board's order to refrain from both abusive telephone communications with Board personnel.

On September 13, 2017, in direct violation of the Board's August 4, 2017 order, Mr. Briganti attempted to communicate with Board personnel on at least three separate occasions, actually contacted Board personnel on at least two of those occasions and, during those contacts, was again abusive and threatening toward Board personnel. As noted above, the Board warned Mr. Briganti that any further attempt to call Board personnel during the pendency of these proceedings may result in sanctions, including dismissal of the notice of opposition. *See* 20 TTABVUE 6.

**Decision: This opposition is dismissed with prejudice.**