

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: December 14, 2016

Opposition No. 91231378

Jam Cellars Inc.

v.

Rubin Wines LLC

Tyrone Craven, Lead Paralegal Specialist:

On November 22, 2016, Opposer filed a notice of opposition using ESTTA, the Board's electronic filing system, but discovered that only the coversheet would display, and was later informed that the initial filing was corrupted.

In response, on November 28, 2016, Applicant filed its response to the notice of opposition indicating that Opposer failed to upload its pleadings, thus there were no allegations for Applicant to deny or admit.

On December 1, 2016, Opposer filed what the Board will construe as an amended notice of opposition. Pursuant to Fed. R. Civ. P. 15(a)(1), 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 serving it, or if the pleading is one to which a responsive pleading is required, 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 Rule 2.107/2.115; TBMP § 507.01. However, as a practical matter, because the time to answer set by the Board's institution order is 40 days, a plaintiff may amend its complaint once as a matter of course beyond the initial 21 days from serving it until the defendant files either an answer or a motion under Fed. R. Civ. P. 12(b), (e) or (f). *See* TBMP § 507.02.

Opposer's amended notice of opposition was filed as a matter of course, and is accepted as Opposer's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(A) and (B).

Applicant is allowed until **January 23, 2017** in which to file an answer to the amended notice of opposition.

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

Deadline for Discovery Conference	2/22/2017
Discovery Opens	2/22/2017
Initial Disclosures Due	3/24/2017
Expert Disclosures Due	7/22/2017
Discovery Closes	8/21/2017
Plaintiff's Pretrial Disclosures	10/5/2017
Plaintiff's 30-day Trial Period Ends	11/19/2017
Defendant's Pretrial Disclosures	12/4/2017
Defendant's 30-day Trial Period Ends	1/18/2018
Plaintiff's Rebuttal Disclosures	2/2/2018
Plaintiff's 15-day Rebuttal Period Ends	3/4/2018

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.