

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

Baxley

Mailed: March 2, 2018

Opposition No. 91238706

Xiang Yin He Chang Tuan Inc.

v.

*Edison Chinese Chorus Inc. AKA Xiang Yin
Chorus or Xiang Yin He Chang Tuan*

Andrew P. Baxley, Interlocutory Attorney:

In response to Applicant's motion (filed February 6, 2018) to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim, Opposer, on February 26, 2018, filed a motion for leave to file an amended notice of opposition and an amended notice of opposition.

Because Opposer may respond to the motion to dismiss by timely filing an amended notice of opposition (*see* Fed. R. Civ. P. 15(a)(1)(b)), the motion for leave to file an amended notice of opposition is moot. The amended notice of opposition is accepted as the operative complaint herein. Because the amended notice of opposition is now operative, the motion to dismiss is moot.

A notice of opposition is the complaint in this proceeding and should be formatted accordingly. *See* Fed. R. Civ. P. 10(b); TBMP § 309.01 (June 2017). Opposer's amended notice of opposition does not consist of numbered paragraphs and is more in the nature of a brief. As such, it does not comply with Rule 10(b).

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Opposer is allowed until twenty days from the mailing date set forth in this order to file a second amended notice of opposition that is in the nature of a complaint and otherwise complies with Fed. R. Civ. P. 8(a) and 10(b) and Trademark Rule 2.126. Proceedings herein otherwise remain suspended.