

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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JK

March 12, 2020

Opposition No. 91241481

Smokey Island Grille LLC

v.

*The Tai Walker Company, LLC
and Ty Walker*

J. Krisp, Interlocutory Attorney:

In the November 4, 2019 order, the Board allowed the parties thirty days to submit herein for the Board's review (20 TTABVUE 2):

1) a copy of the operative pleadings, as well as any final order or mandate issued in the civil action, and 2) a statement or brief setting forth, at a minimum, the current status of the civil action.

Despite Applicant's multiple submissions (21-25 TTABVUE) filed on December 5, 2019, the record still does not include a copy of the operative pleadings from which the Board can ascertain whether suspension of this proceeding is appropriate pursuant to Trademark Rule 2.117(a). Opposer did not respond to the November 4, 2019 order, and thus far its only communication in the record on this issue is its April 2, 2019 brief wherein it argues in favor of suspension but only sets forth general matters regarding the civil action.

Accordingly, and to avoid further unnecessary delay, this proceeding remains suspended and **Opposer is allowed until fifteen (15) days from the date of this order** to submit a copy of the operative pleadings, as well as any final order or mandate issued in the civil action, failing which the Board will resume this proceeding and reset dates.

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

Notice of New Standard Protective Order

Effective February 5, 2020, the Board's new Standard Protective Order is applicable and enforceable in all Board proceedings, except those in which a stipulated protective agreement has already been approved. No substantive changes were adopted. Notice of the new order, including a link thereto, are available at:

<https://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board?MURL=ttab>.

TIPS FOR FILING EVIDENCE, TESTIMONY, OR LARGE DOCUMENTS

The Board requires each submission to meet the following criteria before it will be considered: 1) pages must be legible and easily read on a computer screen; 2) page orientation should be determined by its ease of viewing relevant text or evidence, for example, there should be no sideways or upside-down pages; 3) pages must appear in their proper order; 4) depositions and exhibits must be clearly labeled and numbered – use separator pages between exhibits and clearly label each exhibit using sequential letters or numbers; and 5) the entire submission should be text-searchable. Additionally, submissions must be compliant with Trademark Rules 2.119 and 2.126. Submissions failing to meet all of the criteria above may require re-filing. **Note:** Parties are strongly encouraged to check the entire document before filing.¹ The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

¹ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.