

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

January 9, 2019

Opposition No. 91242958

*James A Conway, Rohan Campbell, Yusuf A
Boyd*

v.

Anthony L. Jones

Elizabeth A. Dunn, Attorney (571-272-4267):

The Board notes the parties' responses to the Board's order of October 22, 2018. Inasmuch Joint Opposers' response was not properly signed and Applicant's response does not include proof of service, proceedings remain suspended and the parties are ordered to file amended responses with proof of service and proper signatures within TEN DAYS of the date of this order.

As the parties were advised in both the Board's August 11, 2018 institution and trial order and again in the October 22, 2018 order, acting without counsel is permissible but not advisable. 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. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, 1212

(TTAB 2006), *aff'd unpub'd*, 240 Fed. Appx. 865 (Fed. Cir. July 11, 2007), *cert. denied*, 552 U.S. 1109 (2008).

PROOF OF SERVICE IS REQUIRED ON ALL SUBMISSIONS

Every submission to the Board must include proof of service which certifies that the party making the submission sent a copy by email to the other party, and, of course, the copy must actually be sent. Trademark Rule 2.119 provides “Except for the notice of opposition or the petition to cancel, every submission filed in the Office in inter partes cases, including notices of appeal to the courts, must be served upon the other party or parties. Proof of such service must be made before the submission will be considered by the Office. A statement signed by the attorney or other authorized representative, attached to or appearing on the original submission when filed, clearly stating the date and manner in which service was made will be accepted as prima facie proof of service.” A sample certificate of service was provided in the Board’s August 11, 2018 institution and trial order (2 TTABVUE 2).

ALL SUBMISSIONS MUST BE SIGNED BY ALL JOINT OPPOSERS

Trademark Rule 2.119(e) states:

Every submission filed in an inter partes proceeding, and every request for an extension of time to file an opposition, must be signed by the party filing it, or by the party’s attorney or other authorized representative, but an unsigned submission will not be refused consideration if a signed copy is submitted to the Office within the time limit set in the notification of this defect by the Office.

USPTO rules make clear that an “authorized representative” is limited to “individuals who were recognized to practice before the Office in trademark matters prior to January 1, 1957.” United States Patent and Trademark Office Rule 11.14(b)¹. Moreover, the USPTO rules also make clear that the circumstances in which an individual may appear on behalf of anyone but themselves as an individual are extremely limited, and do not include a joint opposer appearing on behalf of the other joint opposers. United States Patent and Trademark Office Rule 11.14(e)². Here, the response to the Board order by Joint Opposers James Conway, Rohan Campbell, and Yusuf Boyd was signed only by Yusuf Boyd and thus is unauthorized.

APPLICANT’S ANSWER CONSTRUED AS A GENERAL DENIAL

Applicant’s answer filed September 19, 2018 is informal because it does not specifically admit or deny each of the 53 numbered paragraphs of the notice of

¹ United States Patent and Trademark Office Rule 11.14(b) provides:

Individuals who are not attorneys are not recognized to practice before the Office in trademark and other non-patent matters, except that individuals not attorneys who were recognized to practice before the Office in trademark matters under this chapter prior to January 1, 1957, will be recognized as agents to continue practice before the Office in trademark matters. Except as provided in the preceding sentence, registration as a patent agent does not itself entitle an individual to practice before the Office in trademark matters.

² United States Patent and Trademark Office Rule 11.14(e) provides:

(e) No individual other than those specified in paragraphs (a), (b), and (c) of this section will be permitted to practice before the Office in trademark matters on behalf of a client. Any individual may appear in a trademark or other non-patent matter in his or her own behalf. Any individual may appear in a trademark or other non-patent matter in his or her own behalf. Any individual may appear in a trademark matter for:

- (1) A firm of which he or she is a member,
- (2) A partnership of which he or she is a partner, or
- (3) A corporation or association of which he or she is an officer and which he or she is authorized to represent, if such firm, partnership, corporation, or association is a party to a trademark proceeding pending before the Office.

opposition. The Board finds that Applicant intends in good faith to deny all the allegations of the notice of opposition, and thus construes the informal answer as a general denial under Fed. R. Civ. P. 8)(b)(3).

Inasmuch as both parties have requested Board participation in the discovery conference, at the conference the Joint Opposers' claims will be discussed. If Applicant then wishes to file an amended answer with specific admissions and denials, Applicant may seek permission to do so.

Joint Opposers's unauthorized motion for default judgment will be given no consideration.

PROCEEDINGS REMAIN SUSPENDED