

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
General Email: TTABInfo@uspto.gov

MW/VV

June 25, 2019

Opposition No. 91248931

Original Buff, S.A.

v.

*Jacklyn R. Goodheart & Christian M.
Seemann DBA BUFFitUP*

Michael Webster, Interlocutory Attorney:

On June 19, 2019, Applicant filed a submission requesting to delete the identification of goods in the opposed International Class 25 of the involved application Serial No. 87376851.¹ 4 TTABVUE. Because the submission was not properly signed, the request is **denied**.

Under Trademark Rule 11.18(a), 37 C.F.R. § 11.18(a), all documents filed in the Office must be signed. If the owner is not represented by a qualified practitioner, the individual owner or someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership) must sign. In the case of joint owners who

¹ Applicants' request to abandon the opposed Class 25 does not indicate proof of service of a copy of same on counsel for Opposer, as required by Trademark Rule 2.119. A copy of the abandonment can be viewed using TTABVUE at <http://ttabvue.uspto.gov>.

are not represented by a qualified practitioner, all must sign. Trademark Rule 2.193(e)(2)(ii), 37 C.F.R § 2.193(a).

In this case, because the subject application is jointly owned by Jacklyn R. Goodheart & Christian M. Seemann, the request to abandon opposed International Class 25 of the subject application must be signed by both Applicants. Accordingly, because the signature of the both owners was not submitted with the filing, the request to abandon the opposed Class 25 is **denied** without prejudice.²

Trial dates remain as set in the Board's June 19, 2019 order.

Pro Se Information

It is noted that Jacklyn R. Goodheart & Christian M. Seemann intend to represent itself in this proceeding. While Patent and Trademark Rule 11.14 permits any person to represent itself, it is strongly advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in *inter partes* proceedings before the Board to secure the services of an attorney who is familiar

² Additionally, the request is being submitted without Opposer's written consent. In an opposition to an application having multiple classes, if the Applicant files a request to amend the application to delete an opposed class, the request for amendment is, in effect, an abandonment of the application with respect to that class, and is governed by Trademark Rule 2.135.

Trademark Rule 2.135 provides as follows:

After the commencement of an opposition, concurrent use, or interference proceeding, if the applicant files a written abandonment of the application or of the mark without the written consent of every adverse party to the proceeding, judgment shall be entered against the applicant. The written consent of an adverse party may be signed by the adverse party or by the adverse party's attorney or other authorized representative.

with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney. *See* TBMP § 114.02.

Trademark Rules 2.119(a) and (b) require that every submission filed in a proceeding before the Board **must** be served upon the other party or parties, and proper proof of such service must be made before the submission will be considered by the Board. Accordingly, all submissions filed in this proceeding **must** be accompanied by 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, the name of each party or person upon whom service was made, and the email address or address. *See* TBMP § 113.03. Service must be made by email unless otherwise stipulated, or unless the filing party has satisfied the requirements for another method of service as set forth in Trademark Rule 2.119(b). The statement will be accepted as prima facie proof of service, must be signed and dated, and should take the form of a Certificate of Service as follows:

I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by forwarding said copy on (insert date of mailing), via email (or insert other appropriate method of delivery) to: (set out name, address, and email address of opposing counsel or party).

Signature _____
Date _____

Submissions in Board proceedings must be made via ESTTA, the Electronic System for Trademark Trials and Appeals, and must be in compliance with

Trademark Rules 2.126(a) and (b). See TBMP § 110.01. The ESTTA user manual, ESTTA forms, and instructions for their use are at <http://estta.uspto.gov/>.

It is recommended that any pro se party be familiar with the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice. Parties should also be familiar with the Trademark Trial and Appeal Board Manual of Procedure (TBMP), available at <http://www.uspto.gov/ttab>, the TTABVUE system for viewing the record for all Board proceedings, available at <http://ttabvue.uspto.gov/ttabvue/>, and the Standard Protective Order, available at <https://www.uspto.gov/trademarks-application-process/appealing-trademark-decisions/standard-documents-and-guidelines-0>.

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is required of all parties, whether or not they are represented by counsel. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006), *aff'd unpub'd*, 240 Fed. Appx.865 (Fed. Cir. 2007), *cert. denied*, 552 U.S. 1109 (2008).