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
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RK

April 27, 2020

Opposition No. **91254696**

Apple Inc.

v.

Carl K. Mcbeath

Yong Oh (Richard) Kim, Interlocutory Attorney:

A notice of opposition was filed on March 11, 2020,[1] and an institution order was issued on March 17, 2020, wherein the deadline for answer was set to April 26, 2020.[2] As part of that order, notice was given to the parties that as of August 3, 2019, the USPTO requires applicants, registrants, or parties to a proceeding before the Board whose domicile is not located within the United States or its territories to be represented by an attorney who is an active member in good standing of the bar of the highest court of a state in the United States, the District of Columbia, or any Commonwealth or territory of the United States.[3] *See Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants*, 84 Fed. Reg. 31498 (July 2, 2019), and Trademark Rule 2.11, 37 C.F.R. § 2.11; *see also* Patent and

[1] 1 TTABVUE.

[22] 2 TTABVUE 3.

[3] *Id*. at 6.

Trademark Rules 11.1 and 11.14, 37 C.F.R. §§ 11.1 and 11.14. Notwithstanding this notice, Applicant himself filed a putative answer to the notice of opposition on April 24, 2020.[4]

The filing is unacceptable because (1) it lacks proof of service as required under Trademark Rule 2.119, (2) it is not in compliance with Fed. R. Civ. P. 8(b), and (3) it was filed by Applicant, who has a foreign domicile, rather than U.S. counsel. Accordingly, Applicant's filing of April 24, 2020, is hereby **STRICKEN**. The Board declines, however, to enter default judgment against Applicant since it is the general practice of the Board to allow a party an opportunity to correct a defective pleading. *See Miller Brewing Co. v. Anheuser-Busch Inc.*, 27 USPQ2d 1711, 1714 (TTAB 1993).

As Applicant cannot proceed in this matter without United States counsel, Applicant is allowed until **THIRTY (30) DAYS** from the mailing date of this order to appoint one to represent him in this proceeding.[5] Should United States counsel be appointed, the proceeding schedule will be reset beginning with Applicant's time to file an amended answer. On the other hand, should Applicant fail to secure United States counsel, the Board may issue an order to show cause why judgment should not be entered against Applicant for his failure to comply with Trademark Rule 2.11(a).

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[4] 4 TTABVUE.

[5] Any newly appointed United States counsel must provide the name of the State (as defined in Patent and Trademark Rule 11.1) in which counsel is an active member in good standing, the date of admission to the bar of the named State, and the bar license number. If the bar license number is considered proprietary, United States counsel may submit the bar number as confidential to mask it from public view.

Proceedings are otherwise **SUSPENDED**.

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