

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
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LTS

November 5, 2020

Opposition No. 91264929

Top Tobacco, L.P.

v.

Potomac Tobacco Company Limited

Lawrence T. Stanley, Jr., Interlocutory Attorney:

Opposer's motion to strike, filed November 4, 2020, does not include proof of service. Trademark Rule 2.119(a) states that every submission filed in an inter partes proceeding must be served upon the other party or parties, and proof of such service must be made before the submission will be considered. See TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE § 113.02 (2020). "Proof of service" usually consists of a signed, dated statement attesting to the following matters: (1) the title or nature of the paper being served, (2) the method of service (i.e., electronic mail), (3) the person being served and the email address used to effect service, and (4) the date of service. This written statement should take the form of a "certificate of service" which should read as follows:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon

**Respondent's counsel by forwarding said copy, via email to:
[insert email address].**

The certificate of service must be signed¹ and dated.

Because the record does not show that Opposer served its motion to strike, it will not be considered by the Board unless and until Opposer submits proof of service on Applicant of the motion to strike.

Opposer is allowed until **ten (10) days** from the date of this order to submit a certificate of service for its motion to strike identifying the date and means by which the motion to strike was served. Such proof of service must be uploaded to this proceeding via ESTTA, and that document itself must show proof of service on Applicant's counsel.

If Opposer properly submits to the Board (and serves on Applicant's counsel) proof of service of Opposer's previously-filed motion to strike, Applicant is allowed until **twenty (20) days** from the date of service of that document on Applicant's counsel to submit its response to Opposer's motion to strike.

If Applicant submits any response to Opposer's motion to strike, Opposer may file a reply brief thereto in accordance with Trademark Rule 2.127(a).

This proceeding is otherwise **suspended**. Any paper filed during the pendency of Opposer's motion to strike which is not germane thereto will be given no consideration. *See* Trademark Rule 2.127(d). The parties should note that the

¹ An electronic signature comprises a forward slash, “/”, placed before and after the typed name of the person actually signing the document. *See* Trademark Rule 2.193; *see also* TBMP §§ 106.02 and 106.03.

Opposition No. 91264929

schedule for the discovery conference, initial disclosures and discovery is also suspended by this order and will be reset in the event that the Board resumes proceedings. TBMP § 401.01.