

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

May 3, 2021

Opposition No. 91267481

Arcware Technologies LLC

v.

Aggreco LLC

**M. Catherine Faint,
Interlocutory Attorney:**

The Board notes Applicant's motion to dismiss for failure to state a claim (filed April 16, 2021).

When a party timely files a potentially dispositive motion, the proceeding is suspended with respect to all matters not germane to the motion, and no party should file any paper which is not germane to the motion except as otherwise may be specified in a Board order. *See* Trademark Rule 2.127(d). Accordingly, as of the filing date of the motion to dismiss, proceedings are suspended pending disposition of the motion. Any paper filed during the pendency of this motion which is not germane thereto will be given no consideration. *See* Trademark Rule 2.127(d).

The form of Applicant's motion is not in compliance with Trademark Rule 2.126, 37 C.F.R. 2.126. That is the motion is single-spaced instead of double-spaced. See

TBMP § 502.02 (2020). The Board will expect strict compliance with its Rules in all future filings.

The parties should note that the 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.

The motion to dismiss will be decided in due course.

Pro Se Information

The Board notes that Applicant is representing itself through its Managing Member in this proceeding. Although Patent and Trademark Rule 11.14 permits an entity to represent itself, it is strongly advisable for a party 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 with such matters. The United States Patent and Trademark Office (USPTO) cannot aid in the selection of an attorney. As the impartial decision maker, the Board may not provide legal advice; it may provide information solely as to procedure.

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/trademarksapplication-process/trademark-trial-and-appeal-board-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>.

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) via email (or insert other appropriate method of delivery) to: (set out name, and address or email address of opposing counsel or party).

Signature _____
Date _____

Strict compliance with the Trademark Rules of Practice, and the Federal Rules of Civil Procedure (where applicable), is required of all parties before the Board, whether or not they are represented by counsel. *See McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006).