

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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adh/kk

February 22, 2022

Opposition No. 91273832

Welltopix Retail LLC

v.

Sjovik Limited

Ashley D. Hayes, Interlocutory Attorney:

On February 8, 2022, Applicant filed a motion to strike Claim III of the notice of opposition. 4 TTABVUE. On February 24, 2022, Applicant filed its answer and purported “Counterclaim” regarding Opposer’s pleaded Application Serial No. 90786049. 5 TTABVUE.

Applicant may not assert (or reserve its right to assert) a defense or counterclaim directed toward the sufficiency of Opposer’s pleaded application because the Board has no jurisdiction over it. *See, e.g., Int’l Telephone and Telegraph Corp. v. Int’l Mobile Machs. Corp.*, 218 USPQ 1024, 1026 (TTAB 1983) (counterclaim to refuse petitioner’s pending applications was improper in view of Board’s lack of jurisdiction over

applications).¹ Accordingly, the Board sua sponte strikes Applicant's counterclaim, 5 TTABVUE 9, which will receive no further consideration.

Proceedings are **SUSPENDED** pending disposition of Applicant's motion to strike Claim III of the notice of opposition. *See* Trademark Rule 2.117(c). Any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. *Cf.* Trademark Rule 2.127(d).

The motion to strike will be decided in due course.

¹ To the extent Applicant opposes registration of Opposer's pleaded application no. 90786049 in the event it is published for opposition, Applicant should provide notice herein so that the Board may consider whether consolidation is appropriate. *See* Trademark Rule 2.106(b)(3)(i).