

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

May 2, 2022

Opposition No. 91273945

*Beeline GmbH*

*v.*

*Nanci Ceston, Michael G. Cestone, Michael J. Cestone, Frank Cestone and Gianna Cestone*

**Rebecca Stempien Coyle, Interlocutory Attorney:**

On March 4, 2022, the Board issued a notice of default to Applicants for failure to file an answer to the notice of opposition, or in the alternative, to file a motion to extend time to file an answer. (4 TTABVUE). On March 21, 2022, one of the Applicants, Michael J. Cestone, filed a response to the notice of default which included a “response to opposition”. (5 TTABVUE).

**ALL APPLICANTS MUST SIGN SUBMISSIONS**

Applicants Nanci Ceston, Michael G. Cestone, Michael J. Cestone, Frank Cestone and Gianna Cestone are joint applicants, who appear to be acting pro se (without an attorney). Where all of the joint Applicants are appearing pro se, they must each sign all papers they may file or serve before the Board. *See, e.g.*, TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (“TBMP”) § 114.01 (2021) (“Joint owners who elect to represent themselves must act together.”); *cf.* Trademark Rule 2.193(e), 37

C.F.R. § 2.193(e); TBMP § 311.01(b); TRADEMARK MANUAL OF EXAMINING PROCEDURE (“TMEP”) §§ 712.01, 803.03(d) (2021).

Because each of the named joint Applicants is in effect an owner of the mark sought to be registered, **each of them must sign any papers** before the Board as the persons who have legal authority to bind the Applicants. Trademark Rule 2.193(e). An individual party who is not an attorney may not represent another party before the Board. Patent and Trademark Rule 11.14, 37 C.F.R. § 11.14.

Accordingly, within **TWENTY (20) DAYS** of this order, **joint Applicants Nanci Ceston, Michael G. Cestone, Frank Cestone and Gianna Cestone must file and serve their ratifications of the response and answer which was signed by Michael J. Cestone,**<sup>1</sup> failing which the Board may enter default judgment against Applicants.

Proceedings otherwise **remain suspended** pending Applicants’ response to this order.<sup>2</sup>

❖ **Information for a Pro Se Litigant**

The Board notes that Applicants currently are representing themselves in this proceeding. While Patent and Trademark Rule 11.14 permits a party 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

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<sup>1</sup> Alternatively, the joint applicants may file a duplicate response and answer, but this must be signed by **all** of the joint applicants: Nanci Ceston, Michael G. Cestone, Michael J. Cestone, Frank Cestone and Gianna Cestone.

<sup>2</sup> In the event default is ultimately set aside, discovery, trial and other dates will be reset by the Board.

proceedings before the Board to secure the services of an attorney who is familiar 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 except for the original notice of opposition, 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, which 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/trademarks-application-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/sites/default/files/documents/Standard%20Protective%20Order\\_02052020.pdf](https://www.uspto.gov/sites/default/files/documents/Standard%20Protective%20Order_02052020.pdf).

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).

This inter partes proceeding is similar to a civil action in a federal district court. The parties file pleadings and a range of possible motions. This proceeding includes designated times for disclosures, discovery (discovery depositions, interrogatories, requests for production of documents and things, and requests for admission, to

ascertain the facts underlying an adversary's case), a trial period, and the filing of briefs. Trademark Rules §§ 2.122–2.125 govern the trial evidence and testimony. The Board does not preside at the taking of testimony; all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. Additionally, the testimony of witnesses in inter partes cases may be submitted in the form of an affidavit or a declaration pursuant to 37 C.F.R. § 2.20 and in conformance with the Federal Rules of Evidence, filed during the proffering party's testimony period, subject to the right of any adverse party to elect to take and bear the expense of oral cross-examination of that witness. *See* Trademark Rule 2.123(a)(1), 37 C.F.R. § 2.123(a)(1). No paper, document, or exhibit will be considered as evidence unless it has been introduced in evidence in accordance with the applicable rules.