

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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EY/WDJ

September 29, 2022

Opposition No. 91277331

UncommonGoods, LLC

v.

Uncommon Good Inc.

**Denise M. DelGizzi,
Chief Clerk of the Board**

On September 12, 2022, Opposer/Counterclaim-Defendant filed a motion to strike certain paragraphs of Applicant/Counterclaim-Plaintiff's answer and affirmative defenses. *See* Fed. R. Civ. P. 12(f). On September 20, 2022, Applicant/Counterclaim-Plaintiff filed an amended answer and its response to the motion to strike.¹

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107; TBMP § 507.01.

¹ The record has been updated to reflect Applicant/Counterclaim-Plaintiff's change of correspondence address filed on September 20, 2022.

Applicant/Counterclaim-Plaintiff's amended answer was filed as a matter of course, and is Applicant/Counterclaim-Plaintiff's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(B).

Accordingly, Opposer/Counterclaim-Defendant's motion to strike is moot and will be given no consideration.

Opposer/Counterclaim-Defendant is allowed until **November 1, 2022** to file an answer to the counterclaim.

The proceeding schedule is reset as follows:

Answer to Counterclaim Due	11/1/2022
Deadline for Discovery Conference	12/1/2022
Discovery Opens	12/1/2022
Initial Disclosures Due	12/31/2022
Expert Disclosures Due	4/30/2023
Discovery Closes	5/30/2023
Pretrial Disclosures Due for Party in Position of Plaintiff in Original Claim	7/14/2023
30-day Trial Period Ends for Party in Position of Plaintiff in Original Claim	8/28/2023
Pretrial Disclosures Due for Party in Position of Defendant in Original Claim and in Position of Plaintiff in Counterclaim	9/12/2023
30-day Trial Period Ends for Party in Position of Defendant in Original Claim, and in Position of Plaintiff in Counterclaim	10/27/2023
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Original Claim and in Position of Defendant in Counterclaim	11/11/2023
30-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Original Claim, and in Position of Defendant in Counterclaim	12/26/2023
Pretrial Disclosures Due for Rebuttal of Party in Position of Plaintiff in Counterclaim	1/10/2024
15-day Trial Period Ends for Rebuttal of Party in Position of Plaintiff in Counterclaim	2/9/2024
Opening Brief for Party in Position of Plaintiff in Original Claim Due	4/9/2024
Combined Brief for Party in Position of Defendant in Original Claim and Opening Brief as Plaintiff in Counterclaim Due	5/9/2024

Combined Rebuttal Brief for Party in Position of Plaintiff in Original Claim and Brief as Defendant in Counterclaim Due	6/8/2024
Rebuttal Brief for Party in Position of Plaintiff in Counterclaim Due	6/23/2024
Request for Oral Hearing (optional) Due	7/3/2024

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).