

ESTTA Tracking number: **ESTTA1357438**Filing date: **05/08/2024**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91290944
Party	Plaintiff Pro-Football LLC
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Date	05/08/2024
Attachments	91290944_240508_Reply in Support of Motion.pdf(525525 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PRO-FOOTBALL LLC and NFL  
PROPERTIES LLC,

Opposers,

v.

O-LINE ENTERTAINMENT LLC,

Applicant.

Serial No.: 97515385  
Filed: July 22, 2022  
Published: October 17, 2023  
Mark: ORIGINAL HOGS

Opposition No.: 91290944

**OPPOSERS' REPLY IN SUPPORT OF MOTION TO AMEND COVER PAGE TO  
NOTICE OF OPPOSITION**

Opposers Pro-Football LLC and NFL Properties LLC (collectively, "Opposers") hereby submit their Reply in support of their Motion to Amend the Cover Page document to include Opposer NFL Properties and to pay the additional Opposer fee.

**INTRODUCTION**

On April 30, 2024, Applicant O-Line Entertainment LLC (hereinafter "Applicant") filed an Opposition to Opposers' Motion to Amend (7 TTABVUE). Applicant's arguments are inapposite, focusing on the standard for a motion to amend a pleading, when Opposers are not seeking such relief. Instead, as explained in detail in Opposers' Motion to Amend (5 TTABVUE), Opposers are seeking to correct a mistake on the Cover Page so that it, and the TTABVUE system, includes all parties identified on the underlying, timely filed pleading.

**ARGUMENT**

Applicant's arguments for refusing to consent to Opposers' Motion are not applicable as Opposers are not attempting to amend the underlying pleading. First, the standard of review provided by Applicant does not apply here. (7 TTABVUE 3). Trademark Rule 2.107(a) states

that a joint opposer may not be added to a *pleading*, but Opposers are not attempting to amend the pleading itself. Both Opposers are identified in the Notice of Opposition filed on April 15, 2024, and Applicant is aware of same. (1 TTABVUE). The proposed amendment to correct a mistake *on the Cover Page* has no prejudicial impact on Applicant as it had timely notice of both Opposers. Furthermore, even if this standard of review applies, there is nothing that precludes such an amendment to the Cover Page in Trademark Rule 2.107(a). While the standard of review for opposition proceedings against applications filed under section 66(a) specifically states that “[t]he named opposers are limited to those identified in the ESTTA cover sheet regardless of what is contained in any attached statement,” this statement is not included in the standard for applications filed under section 1. *See* 37 C.F.R. § 2.107(b). In this case, the opposed application was filed under section 1 of the Trademark Act, and the attached pleading does in fact include the correct Opposers. Therefore, even if Trademark Rule 2.107(a) were to apply in this matter, there is nothing in the standard of review that precludes an amendment to the ESSTA Cover Page to accurately reflect the attached pleading.

Applicant has pointed to no prejudice that it would suffer—because there is no prejudice. As Applicant stated in its Opposition papers, “Pro-Football and the NFL were actively engaged in negotiations with the Applicant regarding this Application prior to their filing deadline.” (7 TTABVUE 6). Applicant was likely anticipating the Notice of Opposition by both Opposers. Indeed, Applicant even lists both Opposers in the caption of its Opposition brief. (7 TTABVUE 2).

The issue here is that, while the Notice of Opposition was entirely complete and accurate, there was a mistake and the Cover Page was revised automatically by ESTTA at the time of filing via a system malfunction. (*See* 5 TTABVUE 3-4). Due to the system malfunction, the fee

set by the ESSTA form was inaccurate and Opposers were not able to pay the additional Opposer fee. (*See id.*) As such, Opposer NFL Properties should not be precluded from being a party to the proceeding due to system defect.

Second, the Board does not lack jurisdiction. Once again, this is not a matter of an untimely filed opposition – the Notice of Opposition filing which identifies both Opposers was timely filed. The issue at hand is in amending the ESSTA system’s Cover Page to reflect both Opposers, which would then allow for the additional fee payment.

**CONCLUSION**

In light of the foregoing, Opposers respectfully request that the Board grant the Motion and accept the amendment to correct the Cover page and give leave to pay the additional Opposer fee.

Dated: May 8, 2024

Respectfully submitted,

**BAKER & HOSTETLER LLP**

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 8, 2024, a true and correct copy of the foregoing  
OPPOSERS' REPLY IN SUPPORT OF MOTION TO AMEND COVER PAGE TO NOTICE  
OF OPPOSITION has been filed electronically using ESTTA and served by e-mail upon the  
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