UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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June 21, 2019

Cancellation No. 92070500

Marquez Brothers International, Inc.

v.

Victor Morales

J. Krisp, Interlocutory Attorney:

Respondent's Answer

By operation of Trademark Rule 2.196, the last date allowed to Respondent to file a timely answer to the petition to cancel was March 18, 2019. Respondent's communication, filed on March 19, 2019, is untimely.

Inasmuch as the record does not reflect that the delay was the result of willful conduct, or that Petitioner has been prejudiced, and inasmuch as it appears that Respondent wishes to set forth a meritorious defense to Petitioner's allegations, Respondent's default is hereby set aside.[1] Fed. R. Civ. P. 55(c); TBMP § 312.02 (June 2019).

Respondent's March 19, 2019 communication, construed as his answer to the petition to cancel, does not comply with Fed R. Civ. P. 8(b) in that Respondent failed

[1] To advance this proceeding, the Board does not deem proceedings to have been suspended based on Respondent's default.

to individually admit or deny each of Petitioner's 54 paragraphs. To advance this proceeding, the Board construes Respondent's communication as his good faith intention to controvert the salient allegations in the petition to cancel, and thus treats the communication as an answer in the form of a general denial. TBMP § 311.02(a).

Suspension

The Board acknowledges Petitioner's June 14, 2019 motion to compel initial disclosures. Proceedings are **suspended** pending disposition of Petitioner's motion to compel, except as discussed below. The parties should not file any submission that is not germane to the motion to compel initial disclosures. *See* Trademark Rule 2.120(f)(2).

The parties may not serve any additional discovery until the period of suspension is lifted or expires by or under order of the Board. The filing of the motion to compel disclosure shall not toll the time for a party to comply with any initial disclosure requirement, or to respond to any outstanding discovery requests or to appear for any noticed discovery deposition. If the motion to compel was filed after the close of discovery, the parties need not make pretrial disclosures until directed to do so by the Board. *See* Trademark Rule 2.120(f)(2); TBMP § 523.01.

The motion to compel initial disclosures will be decided in due course.

Information for Pro Se Respondent

While Patent and Trademark Rule 11.14 permits any person 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* 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 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) 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/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.

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).