

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500
General Email: TTABInfo@uspto.gov

LTS

January 9, 2020

Cancellation No. 92071349

NT-MDT LLC

v.

Irina S. Kozodaeva

Lawrence T. Stanley, Jr., Interlocutory Attorney:

On December 20, 2019, Petitioner filed a document titled “Unopposed Motion Allowing Petitioner to File Amended Petition to Cancel.” 9 TTABVUE. The certificate of service accompanying the motion states that the motion “was electronically FILED and SERVED via ESTTA upon the Registrant, Irina Kozodaeva on: December 20, 2019.” Trademark Rule 2.119(a) states that every submission filed in an inter partes proceeding must be served upon the other party or parties, and proof of such service must be made before the submission will be considered. *See* TBMP § 113.02 (2019). Trademark Rule 2.119(b) provides that service must be made by email, unless otherwise stipulated. *See* TBMP § 113.04. The automatically generated ESTTA filing notice does not constitute service and does not relieve a party of its obligation to serve a copy of any filing pursuant to the Rules; the filing notice and actual service of the submission are independent of one another. To be clear, the filer is always required

to serve the other party. This differs from the rule in the federal courts, where the court's Case Management/Electronic Case Files (CM/ECF) system sends a similar filing notice that constitutes service upon registered users of the court's CM/ECF system under Federal Rule of Civil Procedure 5(b)(E).

Because Petitioner did not effect proper service in accordance with Trademark Rule 2.119, Petitioner's motion to amend will not be considered.

Dates remain as set in the Board's July 9, 2019 order.¹

¹ Petitioner labeled its motion as "unopposed," but did not state whether Respondent consents to all of the relief requested, including both the filing of the amended pleading and the time to respond to the amended pleading. If Petitioner refiles the motion to amend and Respondent consents to the relief requested therein, Petitioner should state so accordingly.