

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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January 19, 2021

Cancellation No. 92075385

*HC Salon Brand Holdings, LLC*

*v.*

*The Bubble, LLC*

**Nicole Thier, Paralegal Specialist:**

The answer to the petition to cancel was due January 6, 2021. Respondent filed a communication on January 14, 2021.

This communication does not indicate proof of service of a copy of same on counsel for Petitioner as previously instructed and required by Trademark Rule 2.119. As explained below, strict compliance with Trademark Rule 2.119 is required in all further submissions filed with the Board. The Board may decline to consider any future submission filed in this proceeding by Respondent which does not include proof of service.

The Board presumes that this communication is intended as Respondent's answer to the petition to cancel. However, said communication does not comply with Fed R. Civ. P. 8(b), which is made applicable this proceeding by Trademark Rule 2.116(a).

Fed. R. Civ. P. 8(b) provides, in part:

(b) Defenses; Admissions and Denials.

(1) *In General*. In responding to a pleading, a party must:

(A) state in short and plain terms its defenses to each claim asserted against it; and

(B) admit or deny the allegations asserted against it by an opposing party.

(5) *Lacking Knowledge or Information*. A party that lacks knowledge or information sufficient to form a belief about the truth of an allegation must so state, and the statement has the effect of a denial.

The petition to cancel filed by Petitioner consists of 23 paragraphs setting forth the basis of Petitioner's claim of damage. In accordance with Fed. R. Civ. P. 8(b), Respondent must answer the petition to cancel **by specifically admitting or denying the allegations contained in each paragraph. If Respondent is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, it should so state and this will have the effect of a denial.** Trademark Rule 2.114(b)(2).

In view of the foregoing, Respondent is allowed until **thirty days from the date of this order** in which to file through ESTTA pursuant to Trademark Rule 2.114(b)(1)<sup>1</sup>, and serve pursuant to Trademark Rule 2.119(b), an answer which complies with Fed. R. Civ. P. 8(b).

Accordingly, conference, disclosure, discovery and trial dates are reset as follows:

Time to Answer	<b>2/18/2021</b>
Deadline for Discovery Conference	<b>3/20/2021</b>
Discovery Opens	<b>3/20/2021</b>

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<sup>1</sup> Instructions and forms for filing through ESTTA are available at <http://estta.uspto.gov>. All Board proceeding files can be viewed via TTABVUE at <http://ttabvue.uspto.gov>.

Initial Disclosures Due	4/19/2021
Expert Disclosures Due	8/17/2021
Discovery Closes	9/16/2021
Plaintiff's Pretrial Disclosures Due	10/31/2021
Plaintiff's 30-day Trial Period Ends	12/15/2021
Defendant's Pretrial Disclosures Due	12/30/2021
Defendant's 30-day Trial Period Ends	2/13/2022
Plaintiff's Rebuttal Disclosures Due	2/28/2022
Plaintiff's 15-day Rebuttal Period Ends	3/30/2022
Plaintiff's Opening Brief Due	5/29/2022
Defendant's Brief Due	6/28/2022
Plaintiff's Reply Brief Due	7/13/2022

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).

**Information for pro se party**

While Patent and Trademark Rule 11.14 permits any person to represent itself, it is generally 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.

In addition, Trademark Rules 2.119(a) and (b) require that every submission filed in the Patent and Trademark Office in a proceeding before the Board **must** be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the submission will be considered by the Board. Consequently, copies of all submissions filed in this proceeding **must** be accompanied by a signed statement indicating the date and manner in which such service was made. *See* TBMP § 113.03. The statement, whether attached to or appearing on the submission when filed, 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, and address or email address of opposing counsel or party).

**Signature** \_\_\_\_\_  
**Date** \_\_\_\_\_

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>.

Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.