

than thirty days will be granted upon request. Further extensions of time may be granted by the Board for good cause. In addition, extensions of time to file an opposition aggregating more than 120 days from the date of publication of the application will not be granted except upon (1) a written consent or stipulation signed by the applicant or its authorized representative, or (2) a written request by the potential opposer or its authorized representative stating that the applicant or its authorized representative has consented to the request, or (3) a showing of extraordinary circumstances, it being considered that a potential opposer has an adequate alternative remedy by a petition for cancellation.

(d) Every request to extend the time for filing a notice of opposition should be submitted in triplicate.

[48 FR 3976 Jan. 28, 1983, as amended at 61 FR 36825, July 15, 1996; 63 FR 48097, Sept. 9, 1998]

§ 2.104 Contents of opposition.

(a) The opposition must set forth a short and plain statement showing why the opposer believes it would be damaged by the registration of the opposed mark and state the grounds for opposition. A duplicate copy of the opposition, including exhibits, shall be filed with the opposition.

(b) Oppositions to different applications owned by the same party may be joined in a consolidated opposition when appropriate, but the required fee must be included for each party joined as opposer for each class in which registration is opposed in each application against which the opposition is filed.

[54 FR 34897, Aug. 22, 1989]

§ 2.105 Notification of opposition proceeding(s).

When an opposition in proper form has been filed and the correct fee(s) have been submitted, a notification shall be prepared by the Trademark Trial and Appeal Board, which shall identify the title and number of the proceeding and the application involved and shall designate a time, not less than thirty days from the mailing date of the notification, within which an answer must be filed. A copy of the notification shall be forwarded to the

attorney or other authorized representative of the opposer, if any, or to the opposer. The duplicate copy of the opposition and exhibits shall be forwarded with a copy of the notification to the attorney or other authorized representative of the applicant, if any, or to the applicant.

[48 FR 23136, May 23, 1983]

§ 2.106 Answer.

(a) If no answer is filed within the time set, the opposition may be decided as in case of default.

(b)(1) An answer shall state in short and plain terms the applicant's defenses to each claim asserted and shall admit or deny the averments upon which the opposer relies. If the applicant is without knowledge or information sufficient to form a belief as to the truth of an averment, applicant shall so state and this will have the effect of a denial. Denials may take any of the forms specified in Rule 8(b) of the Federal Rules of Civil Procedure. An answer may contain any defense, including the affirmative defenses of unclean hands, laches, estoppel, acquiescence, fraud, mistake, prior judgment, or any other matter constituting an avoidance or affirmative defense. When pleading special matters, the Federal Rules of Civil Procedure shall be followed. A reply to an affirmative defense need not be filed. When a defense attacks the validity of a registration pleaded in the opposition, paragraph (b)(2) of this section shall govern. A pleaded registration is a registration identified by number and date of issuance in an original notice of opposition or in any amendment thereto made under Rule 15, Federal Rules of Civil Procedure.

(2)(i) A defense attacking the validity of any one or more of the registrations pleaded in the opposition shall be a compulsory counterclaim if grounds for such counterclaim exist at the time when the answer is filed. If grounds for a counterclaim are known to the applicant when the answer to the opposition is filed, the counterclaim shall be pleaded with or as part of the answer. If grounds for a counterclaim are learned during the course of the opposition proceeding, the counterclaim shall be pleaded promptly after the grounds therefor are learned. A counterclaim