

§ 2.104

37 CFR Ch. I (7-1-08 Edition)

§ 2.104 Contents of opposition.

(a) The opposition must set forth a short and plain statement showing why the opposer believes he, she or it would be damaged by the registration of the opposed mark and state the grounds for 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, as amended at 68 FR 55766, Sept. 26, 2003]

§ 2.105 Notification to parties of opposition proceeding(s).

(a) When an opposition in proper form (see §§ 2.101 and 2.104), with proof of service in accordance with § 2.101(b), has been filed and the correct fee has been submitted, the Trademark Trial and Appeal Board shall prepare a notification, 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. If a party has provided the Office with an e-mail address, the notification may be transmitted via e-mail.

(b) The Board shall forward a copy of the notification to opposer, as follows:

(1) If the opposition is transmitted by an attorney, or a written power of attorney is filed, the Board will send the notification to the attorney transmitting the opposition or to the attorney designated in the power of attorney, provided that the person is an “attorney” as defined in § 10.1(c) of this chapter.

(2) If opposer is not represented by an attorney in the opposition, but opposer has appointed a domestic representative, the Board will send the notification to the domestic representative, unless opposer designates in writing another correspondence address.

(3) If opposer is not represented by an attorney in the opposition, and no domestic representative has been appointed, the Board will send the notification directly to opposer, unless op-

poser designates in writing another correspondence address.

(c) The Board shall forward a copy of the notification to applicant, as follows:

(1) If the opposed application contains a clear indication that the application is being prosecuted by an attorney, as defined in § 10.1(c) of this chapter, the Board shall send the documents described in this section to applicant’s attorney.

(2) If the opposed application is not being prosecuted by an attorney but a domestic representative has been appointed, the Board will send the documents described in this section to the domestic representative, unless applicant designates in writing another correspondence address.

(3) If the opposed application is not being prosecuted by an attorney, and no domestic representative has been appointed, the Board will send the documents described in this section directly to applicant, unless applicant designates in writing another correspondence address.

[68 FR 55766, Sept. 26, 2003, as amended at 72 FR 42258, Aug. 1, 2007]

§ 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