

TTAB denies Meta Platforms' motion to dismiss in dispute with MyMeta Software

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- Meta Platform Inc filed a motion to dismiss MyMeta Software Inc's amended notice of opposition as untimely and for failure to state a claim
- The TTAB found that the amendment conformed the named opponent to the party that received the extension of time to oppose
- The plain language of the relevant Delaware statute provides that a foreign entity and a domesticated corporation are the same continuing entity under Delaware law

In a precedential decision, [MyMeta Software Inc v Meta Platforms Inc](#) (Opposition No 91286055, 24 April 2024), the Trademark Trial and Appeal Board (TTAB) has revisited the intricacies of discrepancies between the party that obtains an extension of time to oppose and the named opponent.

Background

MyMeta Software Inc, a Delaware corporation, filed an extension of time to oppose the subject application. This same company was identified as the opponent in the coversheet used to electronically file the opposition, but the accompanying notice of opposition identified MyMeta Software SRL (an Italian company) as the opponent and owner of the pleaded application upon which the opposition was based. The applicant, Meta Platform Inc, moved to dismiss the opposition as untimely because the Italian company named in the notice of opposition had not obtained the extension of time. The opponent filed an amended notice of opposition, in which the opponent was identified as "MyMeta Software Inc, a Delaware corporation... and [] the corporate domestication of MyMeta

Software SRL". The applicant filed a motion to dismiss the amended notice of opposition as untimely and for failure to state a claim, on the basis that the Delaware company had failed to allege its entitlement to bring the opposition because it was not the owner of the pleaded application.

Decision

Addressing first the question of the timeliness of the opposition, the TTAB started with the rule requiring that the opposition "be filed in the name of the entity to whom the extension was granted, unless one of the exceptions" in the rules applies. It was undisputed that the Delaware corporation obtained the extension. The TTAB "presumes the party named on the [electronically filed coversheet] accompanying the notice of opposition is the [opponent]". As the Delaware corporation obtained the extension and was named on the coversheet, "the [b]oard instituted the proceeding with [that company] as the [opponent], even though [the Italian company] was identified in the attached pleading". Because the amended notice of opposition amended the identity of the opponent from the Italian company to the Delaware company, the amendment conformed the named [opponent] to the party that received the extension of time to oppose. Thus, the TTAB concluded that the opposition was timely filed by the party which obtained the extension.

Addressing whether the amended notice of opposition sufficiently stated a claim required the TTAB to decide whether the Delaware company had a real interest in the proceeding. The applicant argued that the Italian company, as the owner of the pleaded rights, was the party in interest. The TTAB held that the allegations of common law rights of the Delaware company in the amended notice of opposition were sufficient. Nevertheless, the TTAB also undertook an analysis of whether the pleaded application owned by the Italian company could be relied upon by the Delaware company.

This required the TTAB to consider the impact of the "corporate domestication" of the Italian company in Delaware, and more specifically whether these two companies were the same legal entity. The TTAB held that the "plain language" of the relevant Delaware statute provides that a foreign entity and a domesticated corporation are "deemed to be the same continuing entity under Delaware law". As such, the rights of the Italian company were vested in the Delaware company, who may rely on the refusal of the Italian company's pleaded application as the basis to bring an opposition based on likelihood of confusion.

Comment

This case underscores the importance of determining the rights upon which an opposition may be brought when filing for an extension of time to oppose, to be certain that the correct party is obtaining the extension.

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