

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

Ferrell

November 30, 2023

Concurrent Use No. 94003144

Innovative Management Solutions, Inc.
(Application Serial No. 97421883)

v.

Pamela Manley
(Registration No. 5450906)

By the Trademark Trial and Appeal Board:

In its July 27, 2023, the Board provided time for the parties to clarify whether Innovative Management Solutions, Inc. (“Applicant”) is amending its application to seek a geographically unrestricted registration.¹ On August 26, 2023, Applicant responded with its notice of “intent to amend” the application to seek a geographically unrestricted registration.²

First, when a party to an inter partes proceeding before the Board files a submission required by 37 C.F.R. § 2.119(a) to be served upon every other party to the

¹ 5 TTABVUE 3. Citations to the Board record refer to TTABVUE, the Board’s online docketing system. See *Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014). Specifically, the number preceding “TTABVUE” corresponds to the docket entry number, and any number(s) following “TTABVUE” refer to the page number(s) of the docket entry where the cited materials appear.

² 6 TTABVUE.

proceeding, the party filing the submission must include proof that the required service has been made and such proof ordinarily must be submitted before the filing will be considered by the Board. Occasionally, in order to expedite matters, the Board will provide a link to the database where a copy of the filing can be viewed. Applicant's filing is not accompanied by a certificate of service. In this instance, and to expedite matters, the Board exercises its discretion and will consider the filing, however, strict compliance is required in all future submissions filed with the Board.³

Second, Applicant's submission does not indicate Pamela Manley's ("Registrant") express consent to amendment of Applicant's application to one seeking geographically unrestricted registration. 37 C.F.R. § 2.133(a); see also TBMP 514.01. While the parties did not explicitly include geographic restrictions in their "Concurrent Use and Co-Existence Agreement" ("Agreement"), the declarations attached to the Agreement each include the following statement: Applicant and Registrant "have used their respective marks in connection with substantially different geographic areas, as [Registrant] primarily operates in Georgia, whereas [Applicant] operates throughout the country and globally."⁴ Accordingly, without a statement of Registrant's express consent, it is still unclear whether the parties have agreed to geographically restricted concurrent use registrations or to geographically unrestricted coexisting registrations.

³ A copy of the filing can be viewed using TTABVUE at <http://ttabvue.uspto.gov>.

⁴ 3 TTABVUE 7-8.

In view of the foregoing, the parties are allowed until **THIRTY DAYS from the date of this order** to inform the Board whether Registrant expressly consents to Applicant's proposed amendment to its application to seek a geographically unrestricted registration.

Proceedings otherwise remain **suspended**.