

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ETN CAPITAL, LLC, d/b/a BEECH LANE,
Petitioner,

v.

FBA OPERATING CO.,
Patent Owner.

IPR2024-01445
Patent 10,890,925 B2

Before KEN B. BARRETT, MICHELLE N. WORMMEESTER, and
CYNTHIA M. HARDMAN, *Administrative Patent Judges*.

HARDMAN, *Administrative Patent Judge*.

ORDER TO SHOW CAUSE
Conduct of the Proceeding
37 C.F.R. § 42.5

On September 16, 2024, Petitioner ETN Capital, LLC, d/b/a Beech Lane, filed a Petition requesting *inter partes* review of claims 1–20 of U.S. Patent No. 10,890,925 B2. Paper 2. On the same day, Petitioner served a copy of the Petition on Patent Owner at the correspondence address of record for FBA Operating Co. and on Patent Owner’s counsel at Shumaker, Loop & Kendrick, LLP and Bochner PLLC. *Id.* at 77 (Certificate

of Service). Pursuant to 37 C.F.R. § 42.8(a)(2), Patent Owner was to file its mandatory notices¹ within 21 days of service of the Petition, that is, by October 7, 2024. *See* Paper 3, 2.

Because Patent Owner did not file the required notices by the due date, Board personnel contacted counsel for Patent Owner. On November 26, 2024, counsel for Patent Owner (at Bochner PLLC) filed papers purporting to be mandatory notices and a power of attorney. *See* Papers 4, 5. Patent Owner (via counsel at Bochner PLLC) later filed a Preliminary Response (Paper 6, filed December 30, 2024).

In early February 2025, it came to the Board's attention that Patent Owner's mandatory notices and power of attorney (Papers 4, 5) are both defective. Accordingly, on February 7, 2025, Board personnel again reached out to Patent Owner (including by emailing, among other counsel, an attorney at Bochner PLLC), indicating that updated mandatory notices and a power of attorney must be filed immediately. *See* Ex. 3001. To date, Patent Owner has not filed the updated documents, although several hours after the Board sent its February 7 email, Patent Owner filed (via counsel at Bochner PLLC) an authorized Preliminary Sur-Reply (Paper 9).

The Board has now afforded Patent Owner several opportunities to meet its obligations. Failure to comply with an applicable Board rule may subject a party to sanctions, including, but not limited to, entry of an adverse judgment. *See* 37 C.F.R. § 42.12.

¹ The mandatory notices must identify the real party-in-interest, related matters, lead and back-up counsel if the party is represented by counsel, and provide service information. *See* 37 C.F.R. § 42.8(b).

Accordingly, it is:

ORDERED that Patent Owner is in default of its obligation to file mandatory notices under 37 C.F.R. § 42.8(a)(2);

FURTHER ORDERED that Patent Owner shall have five business days from the entry date of this Order to file (1) mandatory notices that provide the information required by 37 C.F.R. § 42.8(b), and (2) a power of attorney that complies with 37 C.F.R. § 1.32(b)(4); and

FURTHER ORDERED that Patent Owner must show cause why the Board should not impose sanctions against it, and that any such filing is limited to three pages in length, shall not be accompanied by any additional evidence, and shall be filed together with the mandatory notices and power of attorney.

IPR2024-01445
Patent 10,890,925 B2

FOR PETITIONER:

David E. Bennett
David D. Kalish
COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518
dbennett@coatsandbennett.com
kalish@coatsandbennett.com

FOR PATENT OWNER:

Paul L. Fraulo
Serge Krimnus
Thomas Stanton
BOCHNER PLLC
1040 Avenue of the Americas, 15th Floor
New York, NY 10018
paul@bochner.law
serge@bochner.law
tstanton@bochner.law