

How to Hire an Attorney to Defend Your Trademark Rights in a Trademark Opposition December 2011

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As you would when hiring an employee or contractor, talk to or email with your prospects to determine which attorney you have a good rapport with and whose judgment you trust. A trademark opposition is litigation that can affect how and if you can continue using your trademark, which is often a significant component of a business. Make sure your prospective attorney is: (1) well versed in the opposition process; (2) responsive to your communication and questions; and, above all (3) someone that you want to work with. You might prefer an attorney from a small firm that may cultivate a more personal relationship with its clients. Perhaps you might favor an attorney whose style is very aggressive or one that is more reserved. The choice is yours.

Attorney practice before the Trademark Trial and Appeal Board (TTAB), which has jurisdiction over the opposition, requires admission to a state bar. Therefore, you can select an attorney from anywhere in the country. This gives you flexibility but it may mean that you will not communicate face-to-face with your attorney. These considerations make your choice of attorney more crucial.

Keep in mind that a trademark opposition can take more than two years and that some stretches can be stressful. You want an attorney who you have a good rapport with and whose judgment you trust. At some point, you may have to make difficult decisions regarding a potential settlement and/or the amount of time and money that you want to continue to commit to the defense of your mark. These decisions are ultimately yours as the client, but you will likely rely heavily on the advice of your attorney.

Finally, if you are not happy with your attorney, you can fire that attorney and hire another one, or even represent yourself. The TTAB is generally very flexible when an attorney is fired or an attorney withdraws its representation, for example, by allowing a suspension in the proceedings until a change in representation is in place.

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