

**THIS OPINION IS NOT A  
PRECEDENT OF THE TTAB**

Mailed:  
October 26, 2011  
Bucher

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Duane Rainville Demers

Serial No. 76664409

Duane Rainville Demers, *pro se*.

Jenny Park, Trademark Examining Attorney, Law Office 104  
(Chris Doninger, Managing Attorney).

Before Bucher, Taylor and Lykos, Administrative Trademark  
Judges.

Order by Bucher, Administrative Trademark Judge:

Applicant sought registration on the Principal Register  
of the mark **ORPHAN'S FUND FOUNDATION** (*in standard  
character format*) for services recited in the application as  
"Wildflowers - An Educational Fund For Higher Education."

Applicant requested an oral hearing in this appeal. As  
noted in our order of August 8, 2011, the Board scheduled an  
oral hearing on Tuesday, October 18, 2011 at 11:00 AM.

Although the assigned panel waited for applicant to make an  
appearance, he failed to do so, and he did not advise the  
Board in advance that he could not appear, or that he wished  
to have the hearing rescheduled.

Under all the circumstances of this appeal, Mr. Demers' right to an oral hearing is considered to have been waived. See Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 1216 n.5 (3d Ed. May 2011); *In re Taylor & Francis [Publishers] Inc.*, 55 USPQ2d 1213, 1214 n.2 (TTAB 2000) (applicant's request to reschedule hearing received three hours before the scheduled hearing because of "a sudden conflict of time" was denied; Commissioner [now Director] denied petition stating that Board has wide discretion in scheduling or rescheduling oral hearings).

Accordingly, this appeal will be decided on the briefs without an oral hearing, and a written opinion will issue in due course on the outstanding issues comprising this appeal.