

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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dmd

Mailed: September 24, 2015

In re Advance Surgical Bodybuilding

Serial No. 86432771

Filed: 10/23/2014

**Joi Wilson, Paralegal Specialist:**

On August 1, 2015, the Board resumed proceeding and set the time for Applicant file its appeal brief.

It has come to the Board's attention that on August 11, 2015, Applicant filed an amendment to the Supplemental Register, an Amendment to Allege Use, and a specimen in support thereof with the Trademark Operation.<sup>1</sup> On September 4, 2015, the Examining Attorney issued an Office action accepting the amendment to the Supplemental Register and the Amendment to Allege Use, however, with respect to the specimen, registration was refused, and Applicant was allowed six-months to respond.

Because the Office action that issued on September 4, 2015 raised a new issue, and the Examining Attorney issued a non-final action allowing Applicant

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<sup>1</sup> In this connection, the amendment to the Supplemental Register should be treated as raising a new issue, such that any refusal to accept registration on the Supplemental Register cannot be made final until applicant has been given an opportunity to respond.

six months to respond, the Board's August 1, 2015 order is vacated, proceeding on the appeal are suspended, and jurisdiction of the application is hereby restored to the Examining Attorney to await a response from Applicant.

The Examining Attorney should continue examination until final resolution of all new issues arising in the examination of Applicant's amendments.

If the Examining Attorney allows this application, the appeal will be moot and proceedings on the appeal will terminate in due course.

If, however, any issues are made the subject of a final action, the Board should be so informed so the appeal may be called up for appropriate action.