

Mermelstein/Ricks

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: June 18, 2005

Opposition Nos. **91157538**
91157768
91158277
91158509
91158520
91158786
91159159

THE PEP BOYS MANNY, MOE &
JACK OF CALIFORNIA

v.

ANDERSON, KENT G

David Mermelstein, Attorney:

The applicant's motion (filed May 17, 2005) to withdraw as counsel of record in this case is hereby denied without prejudice because it fails to comply with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40.

Specifically, the motion does not include one or more of the following requirements: (1) a specification of the basis for the request; (2) a statement that the practitioner has notified the client of his or her desire to withdraw from employment, and has allowed time for employment of another practitioner; (3) a statement that

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all papers and property that relate to the proceeding and to which the client is entitled have been delivered to the client; (4) if any part of a fee paid in advance has not been earned, a statement that the unearned part has been refunded; and (5) proof of service of the request upon the client and upon every other party to the proceeding.¹ See Patent and Trademark Rule 10.40. *Cf. In re Legendary Inc.*, 26 USPQ2d 1478 (Comm'r 1992).

In view thereof, counsel is allowed **THIRTY DAYS** from the mailing date of this order to submit a motion which complies with Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40.

Except to the extent indicated above, proceedings are suspended. The parties will be notified by the Board when proceedings are resumed, and appropriate dates will be rescheduled in due course.

A copy of this order has been sent to all persons listed below.

cc:

Marsha G. Gentner
Jacobson Holman PLLC
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Washington, DC 2004

¹ In addition, applicant's motion was not accompanied by a certificate attesting to service of the paper upon the adverse party. All papers filed in a Board *inter partes* proceeding (with the exception of the original complaint) must be served upon all other parties to the proceeding. Trademark Rule 2.119(a).

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