

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

Baxley

Mailed: August 17, 2010

Opposition No. 91172981

J.L. Pennington

v.

Gitzit, Inc.

By the Trademark Trial and Appeal Board:

On June 30, 2009, the Board issued a final decision on the merits in which it sustained the opposition in the above-captioned proceeding and refused registration of applicant's involved GITZIT mark in standard character form for "fishing lures" in International Class 28. On September 14, 2009, applicant's involved application Serial No. 78703563 became abandoned.

On June 14, 2010, applicant filed a communication with the Board in which it explained that "our attorney filed the paperwork late and we never heard from the [Board] again."¹ In that communication, applicant also requested information

¹ The Board notes that applicant appeared *pro se* between July 24, 2008 and the termination of this case on September 14, 2009. The Board further notes that no submissions were filed herein on applicant's behalf between the issuance of the June 30, 2009 decision and the filing of its June 14, 2010 communication and that, until this order, the Board had not issued any orders in this case since the June 30, 2009 decision.

Opposition No. **91172981**

regarding "how we go about getting our [t]rademark back and re-registered."

Any appeal or request for reconsideration of the June 30, 2009 final decision would be untimely at this point. See Trademark Act Section 21, 15 U.S.C. Section 1071; Trademark Rules 2.129(c) and 2.145; TBMP Sections 543 and 901. Further, applicant, in its communication, does not seek relief from judgment under Fed. R. Civ. P. 60(b). See TBMP Section 544 (2d ed. rev. 2004). Because more than one year has passed since the issuance of the June 30, 2009 decision, the grounds on which applicant could file a Rule 60(b) motion are limited.

In addition, although applicant could file a new application to register its involved mark, along with the appropriate filing fee (see <http://www.uspto.gov/teas/e-TEAS/index.html>), the Board notes that opposer's application Serial No. 77789114 for the GITZIT mark in standard character form for "fishing lures" in International Class 28 that was filed on July 24, 2009 matured into Registration No. 3798654 on June 8, 2010.