

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

FSW/vw

Mailed: February 23, 2009

Opposition No. 91177301

Cake Divas

v.

Charmaine V. Jones

**Frances S. Wolfson, Interlocutory Attorney:**

On December 22, 2008, applicant's attorneys filed a request to withdraw as applicant's counsel of record in this case.<sup>1</sup> The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. Lori D. Greendorfer of the law firm of Schiff Hardin LLP no longer represents applicant in this proceeding.

On February 19, 2009, Karin Segall, Esq. of the law firm of Foley & Lardner LLP entered her appearance on behalf of applicant. Office records have been updated to reflect the appointment of counsel and change in applicant's correspondence address.

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<sup>1</sup> A copy of said request has been placed in both the opposition file and the application file.

The trial schedule in this case was reset on August 25, 2008, by Board order granting the parties' stipulated request for a resetting of dates. Opposer's testimony period was reset to close on January 24, 2009. Inasmuch as opposer's testimony period thus opened on December 25, 2009, opposer's motion for summary judgment, filed January 15, 2009, is untimely. See Trademark Rule 2.127(e)(1); TBMP § 528.02 (2d ed. rev. 2004).

Accordingly, applicant's motion (filed February 19, 2009) to strike opposer's motion for summary judgment as untimely is granted, the motion is hereby stricken, and trial dates, including the close of discovery, are reset as indicated below.

DISCOVERY PERIOD TO CLOSE: **Closed**

30-day testimony period for party in the position of plaintiff to close: **March 20, 2009**

30-day testimony period for party in the position of the defendant to close: **May 19, 2009**

15-day rebuttal period for party in the position of the plaintiff to close: **July 3, 2009**

**IN EACH INSTANCE,** a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within **thirty days** after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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

cc:

Lori D. Greendorfer  
Schiff Hardin LLP  
6600 Sears Tower  
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Charmaine V. Jones  
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**NEWS FROM THE TTAB:**

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:  
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>  
[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any

protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:  
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>