

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

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Mailed: January 13, 2009

Opposition No. 91181645

The Little Mint, Inc. d/b/a
Andy's CheeseSteaks and
Cheeseburgers

v.

Andrew Decker

Elizabeth A. Dunn, Attorney (571-272-4267):

On November 5, 2008, following the Board's grant of the withdrawal of applicant's former counsel, applicant filed an unserved paper indicating that he wishes to represent himself in this proceeding.

SERVICE OF PAPERS

To expedite matters, the Board will forward a copy of the paper to opposer. However, applicant is advised that Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board must be served upon the attorney for the other party, or on the party if there is no attorney, and

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proof of such service must be made before the paper will be considered by the Board. Proof of service includes a written statement in the form of a "certificate of service" and reads as follows:

The undersigned hereby certifies that a true and correct copy of the foregoing [insert title of document] was served upon opposer by forwarding said copy, via first class mail, postage prepaid to: [insert name and address].

The certificate of service must be signed and dated.

IDENTIFICATION OF PAPERS

Applicant's handwritten paper contained the date, a single sentence, and the signature. A document filed in a proceeding before the Board should bear at its top the heading "IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD," followed by the name and number of the inter partes proceeding.²⁵ The document should also include a title describing its nature, e.g., "Motion to Compel," "Brief in Opposition to Respondent's Motion for Summary Judgment," "Notice of Reliance." Trademark Trial and Appeal Board Manual of Procedure (TBMP) §106.01 (2nd ed. rev. 2004).¹ Text in an electronic submission must be in at least 11-point type and double-spaced. Trademark Rule 2.126(b).

¹ The TBMP and the Trademark Rules are available at the USPTO website. See also the note at the end of this order.

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Any subsequent papers filed by applicant must include applicant's telephone number.

CONSIDERATIONS FOR PARTIES WITHOUT COUNSEL

While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney. Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.

Applicant is strongly advised to obtain counsel to present his interest in this proceeding. An inter partes proceeding before the Board is similar to a civil action in a Federal district court. There are pleadings, a wide range of possible motions; discovery (a party's use of discovery depositions, interrogatories, requests for production of documents and things, and requests for admission to ascertain the facts underlying its adversary's case), a trial, and briefs, followed by a decision on the case.¹⁹ The Board does not preside at the taking of testimony. Rather,

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all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No paper, document, or exhibit will be considered as evidence in the case unless it has been introduced in evidence in accordance with the applicable rules.

Discovery, disclosure, and trial dates are reset below:

Expert Disclosures Due	1/29/09
Discovery Closes	2/28/09
Plaintiff's Pretrial Disclosures	4/14/09
Plaintiff's 30-day Trial Period Ends	5/29/09
Defendant's Pretrial Disclosures	6/13/09
Defendant's 30-day Trial Period Ends	7/28/09
Plaintiff's Rebuttal Disclosures	8/12/09
Plaintiff's 15-day Rebuttal Period Ends	9/11/09

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.

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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

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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

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/stdagmnt.htm>