

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

EJW

Mailed: May 13, 2009

Opposition No. 91183936

Hollywood Chamber of Commerce

v.

Hollywood Mobile, Inc.

**ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:**

On September 30, 2008, the Board allowed applicant time to provide a color drawing of the proposed revised mark, a substitute specimen of use, and a proper declaration in support thereof, failing which the Board advised applicant that the proposed amendment to the involved application would not be given further consideration.

In response thereto, on December 12, 2008,<sup>1</sup> applicant submitted a substitute specimen of use, a declaration in support thereof and a revised drawing of the mark. However, the substitute drawing of the mark is not shown in color, which is how the mark is currently described, nor does the substitute specimen show use of the mark in color. In addition, applicant has added the acronym "TM" to the drawing, presumably to

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<sup>1</sup> The delay in addressing this matter is regretted.

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indicate "trademark." The "TM" designation in the drawing is impermissible because it is not part of the mark. See TMEP § 807.02 (5th ed. 2007).

Given that the application currently includes a color description, the drawing of the mark must show the colors in the color description in the application and the specimen must show use of the mark with the colors shown in the drawing. See Trademark Rules 2.20, 2.52(b)(1) and 2.72(b)(1); and TMEP §§ 807.07(a) *et seq.* and 1104.09(e) (5th ed. 2007).

In view of the foregoing, the particular proposed amendment will not be given any further consideration. However, should the parties agree that applicant may amend its mark to be shown (as submitted on December 12, 2008) in black, white and gray only, *i.e.* that applicant's mark will not be a color mark, applicant may submit a revised drawing page *without* the letters "TM" and may affirmatively delete the color description that is currently set forth in the involved application.

Applicant is allowed until **THIRTY DAYS** from the mailing date of this order to submit a revised drawing page and amendment to the application deleting the color description, failing which trial dates will be reset and the proceeding will move forward with the application as published.

This proceeding is otherwise **SUSPENDED**.

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**NEWS FROM THE TTAB:**

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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 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>