

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

Winter/cv

Mailed: December 22, 2010

Opposition No. 91196445

Penske System, Inc.

v.

Jonathan A. Naguit

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

The motion filed by applicant's counsel on December 9, 2010 under Trademark Rule 10.40(c)(5), 37 C.F.R. § 10.40(c)(5), 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, as indicated hereinbelow.

Specifically, the motion does not include the following requirements: (1) a statement that the practitioner has allowed time for employment of another practitioner; (2) a statement that all papers and property that relate to the proceeding and to which the client is entitled have been delivered to the client; (3) if any part of a fee paid in advance has not been earned, a statement that the unearned

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part has been refunded; and (4) proof of service of the request upon the client. See Patent and Trademark Rules 2.119(a) and 10.40, 37 CFR §§ 2.119(a) and 10.40. See also TBMP § 116.02 (2d ed. rev. 2004). Cf. *In re Legendary Inc.*, 26 USPQ2d 1478 (Comm'r 1992).

In view thereof, counsel is allowed until **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.

This proceeding is otherwise SUSPENDED.¹ Accordingly, trial dates, including the due date for initial disclosures, will be reset upon resumption of this proceeding.

¹ The Board notes that a similar motion has been filed in a related Board proceeding, viz. Opp. No. 91196444.