

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Baxley

Mailed: June 20, 2014

Opposition No. 91209857

Deford Bailey LLC

v.

Carlos Deford Bailey and Deford
Bailey III

Andrew P. Baxley, Interlocutory Attorney:

Consideration of the pending motions in this case are deferred pending resolution of the following.

Applicants Carlos Deford Bailey and Deford Bailey III are represented by the same attorney, namely, Walter M. Benjamin. The allegations set forth in the notice of opposition and proposed amended opposition, at minimum with regard to the assertion that the involved application was filed without the authorization of Deford Bailey III, indicate that applicants may have conflicting interests in this case. As a general rule, a practitioner may not represent parties with conflicting interests in Board proceedings. *See* Patent and Trademark Rule 11.107; TBMP § 114.08 (3d ed. rev. 2 2013). Further, in view of the alleged circumstances surrounding the filing of the involved applications, Mr. Benjamin may be a fact witness in this case. *See* Patent and Trademark Rule 11.307; TBMP Section 513.02.

In accordance with Trademark Rule 2.61(c), the parties and their attorney(s) are hereby notified of the possible conflict of interest. It is the responsibility of counsel to insure that there is no violation of the cited rules. If an impermissible conflict exists, counsel should take appropriate action immediately. An attorney who fails to do so may be subject to disciplinary action. *See* Patent and Trademark Rule 11.107.

In view of the foregoing, applicants are allowed until thirty days from the mailing date set forth in this order to: (1) submit the written consent of each applicant to Mr. Benjamin's continued representation after having discussed the potential conflict(s) with him, (2) appoint new counsel for one or both applicants, or (3) indicate that one or both applicants will represent himself. *See id.* Proceedings herein otherwise remain suspended.