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

Mailed: February 25, 2016

Opposition No. 91218461

Athleta, Inc.

v.

David Sales

Monique Tyson, Paralegal Specialist:

On February 24, 2016, Applicant's attorneys filed a request to withdraw as Applicant's counsel of record in this proceeding.[1] The request to withdraw as counsel is in compliance with the requirements of Trademark Rules 2.19(b) and Patent and Trademark Rule 11.116, and is accordingly granted. The law firm of Downey Brand LLP no longer represents applicant in this proceeding.

In view of the withdrawal of Applicant's counsel, and in accordance with standard Board practice, proceedings herein are suspended, and Applicant is allowed until thirty days from the mailing date of this order to appoint new counsel, or to file a paper stating that applicant chooses to represent itself. If Applicant files no response, the Board may issue an order to show cause why default judgment should not be entered against Applicant based on Applicant's apparent loss of interest in the proceeding.

Proceedings are otherwise suspended pending response to this order.

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[1] A copy of the request to withdraw is placed in the application involved in this proceeding.

The parties will be notified by the Board when proceedings are resumed, and dates will be reset, as appropriate.

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

cc:

Dr. David Sales
26841 Calle Hermosa
Suite A
Capistrano Beach, CA 92624

Michael J Thomas
Downey Brand LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814

James D Weinberger
Fross Zelnick Lehrman & Zissu PC
866 United Nations Plaza 6th Floor
New York, NY 10017

Information regarding legal representation

Although Patent and Trademark Rule 11.14 permits an entity to represent itself, it is strongly advisable for a party 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 United States Patent and Trademark Office (USPTO) cannot aid in the selection of an attorney. As the impartial decision maker, the Board may not provide legal advice; it may provide information solely as to procedure.

Any party who does not retain counsel should be familiar with the authorities governing this proceeding, including the Trademark Trial and Appeal Board

Manual of Procedure (TBMP), and the Trademark Rules of Practice (37 C.F.R. Part 2), both accessible directly from the Board's web page: http://www.uspto.gov/trademarks/process/appeal/index.jsp. Also on the Board's web page are links to ESTTA, the Board's electronic filing system[2] at http://estta.uspto.gov, and TTABVUE, for case status and prosecution history at http://ttabvue.uspto.gov/ttabvue.

Trademark Rules 2.119(a) and (b) require that every paper filed in the USPTO 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. Proof of service must be made before the paper will be considered by the Board. Accordingly, copies of all papers filed in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. *See* TBMP § 113.03. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service, must be signed and dated, and should take the form of a certificate of service as follows:

> **I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by mailing said copy on (insert date of mailing), via First Class Mail, postage prepaid (or insert other appropriate method of delivery) to: (name and address of opposing counsel or party).**
>
> **Signature**_____
> **Date**_____

[2] The Board strongly encourages parties to file all papers through ESTTA, which operates in real time and provides a tracking number that the filing has been received. For assistance in using ESTTA, call 571-272-8500.

Strict compliance with the Trademark Rules of Practice, and the Federal Rules of Civil Procedure (where applicable), is required of all parties before the Board, whether or not they are represented by counsel. *See McDermott v. San Francisco Women's Motorcycle Contingent,* 81 USPQ2d 1212, n.2 (TTAB 2006).

This *inter partes* proceeding is similar to a civil action in a federal district court. The parties file pleadings and a range of possible motions. This proceeding includes designated times for disclosures, discovery (discovery depositions, interrogatories, requests for production of documents and things, and requests for admission, to ascertain the facts underlying an adversary's case), a trial period, and the filing of briefs. The Board does not preside at the taking of testimony; 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 unless it has been introduced in evidence in accordance with the applicable rules.