

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Baxley

Mailed: October 5, 2004

Cancellation No. 92041630

420 Gear, Inc.

v.

John Marvin Rowland

**By the Trademark Trial and Appeal Board:**

On August 11, 2004, the Board sent an order to show cause under Trademark Rule 2.128(a)(3) because of petitioner's failure to file a brief on the case herein.

On August 30, 2004, respondent refiled the motion for summary judgment that he first filed on July 6, 2004 and which was not considered because it did not include acceptable proof of service on petitioner. A review of the August 30, 2004 motion for summary judgment indicates that it also does not include acceptable proof of service upon petitioner. See Trademark Rules 2.119(a) and (b). Accordingly, it cannot be considered.

The Board deems the refiled motion for summary judgment on August 30, 2004 to have tolled petitioner's time to respond to the August 11, 2004 order to show cause. See TBMP Section 510.03(a). Petitioner is allowed until **twenty**

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**days** from the mailing date of this order to respond to the August 11, 2004 order to show cause herein.

Proceedings herein otherwise remain suspended.