

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

mc/Dunn

Mailed: September 28, 2009

Cancellation No. 92044697

ACM Enterprises, Inc.

v.

Jeannette Martello

Elizabeth A. Dunn, Attorney (571-272-4267):

Proceedings herein are suspended pending the disposition of respondent's combined motion for summary judgment and motion to amend her answer, filed September 24, 2009.

Respondent's motion does not include proof of service. See Trademark Rule 2.119(a).¹ Accordingly, respondent is allowed until five days from the mailing date of this order to serve petitioner with a copy of her motion and to file proof of service with the Board. Petitioner's time to

¹ Trademark Rule 2.119(a) provides "Every paper filed in the United States Patent and Trademark Office in inter partes cases, including notices of appeal, must be served upon the other parties. Proof of such service must be made before the paper will be considered by the Office."

For information about providing the required proof of service, respondent is advised to consult the Trademark Trial and Appeal Board Manual of Procedure (TBMP) §113 (2nd ed. rev. 2004), which, like the Trademark Rules, is available on the USPTO website at www.uspto.gov.

respond to the motion for summary judgment will run from the date of service.

For the second time (see Board order issued September 11, 2009), respondent is ordered to list a phone number at which she can be reached or a message left, and which is regularly checked for messages, on all papers filed with Board.

Respondent, who filed her motion using the Board's electronic filing system (ESTTA), also included a "certificate of facsimile transmission." Trademark Rule 2.195(d)(3) provides "Facsimile transmissions are not permitted and if submitted, will not be accorded a date of receipt, in the following situations ... Correspondence to be filed with the Trademark Trial and Appeal Board, except notices of ex parte appeal." Respondent is ordered to refrain from use of facsimile transmission in any filings with the Board.

Strict compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, 1212 (TTAB 2006).

Except as ordered above, any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. See Trademark Rule 2.127(d).