

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

Mailed: December 19, 2008

Cancellation No. 92048334

RA Brands, LLC

v.

Robert Austin Burns, Jr.

**Robert H. Coggins,
Interlocutory Attorney:**

Respondent's communications (filed November 17 and 26, 2008) indicating that respondent will represent himself are noted.¹

Pro Se Information

As respondent noted in his reply, respondent's father, as a non-attorney, may not represent respondent in this proceeding. See Patent and Trademark Rule 11.14. Whether a non-party may be present as an observer during telephone

¹ Respondent's communications do not indicate proof of service of a copy of same on counsel for petitioner as required by Trademark Rule 2.119 (which is more fully explained later in this order). Strict compliance with Trademark Rule 2.119 is required in all further papers filed with the Board. In order to expedite this matter, opposer is directed to the following URL where it may view a copy of respondent's filings:
<http://ttabvueint.uspto.gov/ttabvue/v?qs=92048334>

The Board also notes that petitioner's November 24, 2008 correspondence fails to include proof of service on respondent. See TBMP § 113.03 (2d ed. rev. 2004).

conferences with or oral hearings at the Board may be decided on a case-by-case basis. However, in any event, if a non-party is present at conferences or hearings, the non-party may not be heard.

Respondent will be expected to comply with all applicable rules and Board practices during the remainder of this case. It should be noted that while Patent and Trademark Rule 11.14 permits any person to represent himself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in an opposition proceeding to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

If respondent does not retain counsel, then respondent will have to familiarize himself with the rules governing this proceeding. The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). The CFR and the Federal Rules of Civil Procedure are likely to be found at most law libraries and may be available at some public libraries. The Board's manual of procedure will also be helpful.

On the World Wide Web, respondent may access most of these materials by logging onto <http://www.uspto.gov> and making the connection to trademark materials.

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, whether or not they are represented by counsel.

As noted in the first footnote herein, Trademark Rules 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office 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, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which respondent (and petitioner) may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made to the other party. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

Dates Reset

Proceedings are resumed. When counsel for respondent filed its motion to withdraw as counsel of record, petitioner's testimony period had opened. In view thereof, discovery remains closed and dates are reset beginning with petitioner's testimony period on the following schedule.²

30-day testimony period for party in position of plaintiff to close:	2/27/09
30-day testimony period for party in position of defendant to close:	4/28/09
15-day rebuttal testimony period to close:	6/12/09

² Because testimony previously opened, the Board will not entertain a motion for summary judgment. See Trademark Rule 2.127(e)(1).

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125. Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>
http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>