

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

Mailed: December 23, 2010

Cancellation No. 92048777

adidas America, Inc.

v.

Michael Calmese

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

On July 2, 2008, proceedings were suspended pending disposition of a civil action between the parties in the United States District Court for the District of Oregon. Thereafter, on December 15, 2010, respondent filed a notice of the disposition of the civil action.

By way of the notice of disposition, respondent provided a copy of the district court's final judgment and moved the Board to dismiss the cancellation proceeding with prejudice inasmuch as the district court "has ruled and ... has come to a final determination in [r]espondent's favor regarding cancellation."

The Board construes respondent's motion to dismiss as a motion for summary judgment asserting claim or issue preclusion. *See Chromalloy American Corp. v. Kenneth Gordon, Ltd.*, 736 F.2d 694, 222 USPQ 187 (Fed. Cir. 1984).

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However, respondent did not provide the Board with the court's "Order on Plaintiff's Motion for Summary Judgment" or "Verdict, Findings of Fact, and Conclusions of Law" on which the final judgment is predicated. In view thereof, respondent is allowed until twenty days from the mailing date of this order in which to file with the Board the court's "Order on Plaintiff's Motion for Summary Judgment" and "Verdict, Findings of Fact, and Conclusions of Law."

The parties may brief the motion appropriately, but proceedings otherwise remain suspended pending disposition of the motion. 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).

Petitioner's brief in opposition to the motion is due pursuant to Trademark Rules 2.127(e)(1) and 2.119(c).