

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

MBA

Mailed: July 22, 2010

Cancellation No. 92052447

Smash Men's, Inc.

v.

Radames Rosado and Zulma I.
Crespo

Michael B. Adlin, Interlocutory Attorney:

On July 20, 2010, at respondent's request, the Board participated in the parties' telephonic discovery conference mandated under Fed. R. Civ. P. 26(f) and Trademark Rule 2.120(a)(1) and (a)(2). Edward R. Schwartz appeared on petitioner's behalf and Anthony M. Verna III appeared on respondent's behalf. Interlocutory Attorney Michael Adlin participated on the Board's behalf.

During the conference, the parties indicated that they are unaware of any related proceedings, marks or third party disputes. The parties only recently initiated settlement discussions, which have not meaningfully progressed. However, the parties both expressed interest in continuing settlement discussions. The Board strongly encouraged the parties to pursue settlement. The parties agreed to accept

service of papers by e-mail under Trademark Rule 2.119(b)(6).

The parties discussed the pleadings in this case. Petitioner confirmed that its only pleaded ground for cancellation is priority and likelihood of confusion. The Board pointed out that petitioner relies on a single mark, that petitioner's allegations are uncomplicated and straightforward and that this case therefore appears particularly well-suited for accelerated case resolution ("ACR") or other methods to increase the efficiency of this proceeding. The parties generally agreed.

The Board's ACR procedures, which are extremely flexible, are addressed here:

<http://www.uspto.gov/trademarks/process/appeal/acrognoticerule.pdf>

[http://www.uspto.gov/trademarks/process/appeal/accelerated case resolution acr faq.doc](http://www.uspto.gov/trademarks/process/appeal/accelerated%20case%20resolution%20acr%20faq.doc)

[http://www.uspto.gov/trademarks/process/appeal/acrcase list.doc](http://www.uspto.gov/trademarks/process/appeal/acrcase%20list.doc)

The Board also discussed the parties' option to stipulate to limits on discovery, abbreviated procedures for submission of evidence and other ways to expedite resolution of this case. See, Target Brands Inc. v. Hughes, 85 USPQ2d 1676 (TTAB 2007). Similarly, the Board discussed the possibility of the parties making greater reciprocal disclosures than required by Fed. R. Civ. P. 26(a)(1), in lieu of formal discovery. See, "Miscellaneous Changes to Trademark Trial

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and Appeal Board Rules," 71 Fed. Reg. 2498 (January 17, 2006).

While petitioner was prepared to stipulate to certain efficiencies during the teleconference, respondent was not yet prepared to do so. However, respondent will consider these possibilities, and the parties each indicated that they would discuss these issues amongst themselves in the near future. The Board instructed the parties to convene another teleconference in the event they agree to pursue ACR or other methods for making this proceeding more efficient.

The Board's standard protective order, made applicable herein by operation of Trademark Rule 2.116(g), is available here:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>

The parties are encouraged to acknowledge their obligations under the protective order in writing, and may utilize the following form:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/ackagrmnt.htm>

The parties were reminded that although discovery will open on August 5, 2010 pursuant to the Board's order of July 16, 2010, neither discovery requests nor motions for summary judgment may be served until after initial disclosures are made. The deadline for initial disclosures is September 4, 2010. Dates remain as set in the Board's order of July 16, 2010.

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