

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

Baxley

Mailed: January 4, 2012

Cancellation No. 92053298

Tyler Perry Studios, LLC

v.

Kimberly Kearney

By the Trademark Trial and Appeal Board:

On February 3, 2010, prior to the February 16, 2010 issuance of involved Registration No. 3748123, respondent filed a change of address in the USPTO file for that registration.¹ However, the change of address was not entered in the appropriate USPTO database for that registration.

On November 12, 2010, petitioner filed the petition to cancel that commenced the above-captioned proceeding. The certificate of service of the petition to cancel indicates that such petition was served upon respondent at her former address.²

¹ Respondent's new address is: **Kimberly Kearney, Hollywood South, LLC, 17216 Saticoy Street, Suite 235, Van Nuys, CA 91406.** Respondent contacted Board personnel by telephone on January 3, 2012 to inform the Board that she had filed a change of address in the USPTO file for her application in February 2010.

² Respondent's copy of the USPTO's September 11, 2009 letter granting "potential opposer TylerPerry['s]" extension of time to oppose registration of respondent's mark was returned by the

Cancellation No. 92053298

On November 18, 2010, the Board issued the notice instituting this proceeding and sent respondent's copy of such notice to respondent's former address. Respondent's copy was returned by the Postal Service as undeliverable.

After respondent did not respond to February 1, 2011 service by publication, the Board entered default judgment on March 23, 2011. The involved registration was then cancelled on April 5, 2011.

Because the Board sent the institution notice to respondent's former address nine months after respondent filed a change of address in the USPTO's registration file, the default judgment is hereby vacated.³ Board records for this proceeding have been updated to reflect respondent's change of address. The involved registration will be sent to the Office of the Commissioner for Trademarks for appropriate action.⁴

Postal Service as undeliverable on December 22, 2009. Respondent's copy of the notice of publication for the application for the involved registration was returned by the Postal Service as undeliverable on December 28, 2009. If the service copy of the petition to cancel was returned as undeliverable, petitioner was required to notify the Board within ten days of receipt of the returned copy. See Trademark Rule 2.111(b).

³ Copies of the petition to cancel and the institution notice are enclosed with respondent's copy of this order. The Board record for this proceeding is available online at <http://ttabvueint.uspto.gov/ttabvue/>.

⁴ If there has been any transfer of interest in the involved registration, respondent must advise the Board and must submit copies of any documents reflecting that transfer. See Trademark Act Section 10, 15 U.S.C. Section 1060; Patent and Trademark Rules 3.71 and 3.73.

Cancellation No. 92053298

Dates herein are reset as follows.

Answer Due	2/13/12
Deadline for Discovery Conference	3/14/12
Discovery Opens	3/14/12
Initial Disclosures Due	4/13/12
Expert Disclosures Due	8/11/12
Discovery Closes	9/10/12
Plaintiff's Pretrial Disclosures Due	10/25/12
Plaintiff's 30-day Trial Period Ends	12/9/12
Defendant's Pretrial Disclosures Due	12/24/12
Defendant's 30-day Trial Period Ends	2/7/13
Plaintiff's Rebuttal Disclosures Due	2/22/13
Plaintiff's 15-day Rebuttal Period Ends	3/24/13

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.

If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.