

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

DUNN

Mailed: November 26, 2011

Cancellation No. 92053945

Darlington Apple Festival,  
Inc.

v.

Stephen Smith

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

On August 30, 2011, the Board granted the withdrawal filed by respondent's attorney, and ordered respondent to appoint new counsel or to file a paper stating that respondent chooses to represent himself.

On September 30, 2011, apparently in response to this order, respondent filed an unsigned "answers to discovery" which lacked proof of service. The Board will construe this paper as the required notice that respondent intends to defend its registration without legal representation. Proceedings herein are resumed on the schedule set forth below, but respondent must carefully read the entire order.

No consideration will be given to any papers filed in this proceeding hereafter which lack proof of service.

Trademark Rule 2.119. For a sample of adequate proof of service in the form of a certificate of service, applicant is referred to Trademark Trial and Appeal Board Manual of Procedure (TBMP) §113.03 (3rd ed. 2011). Searchable electronic versions of both the TBMP and the Trademark Rules of Practice are available from the USPTO website.

Respondent is also advised that written disclosures or disclosed documents, requests for discovery, responses thereto, and materials or depositions obtained through the disclosure or discovery process should not be filed with the Board, except when submitted with a motion relating to disclosure or discovery, or in support of or in response to a motion for summary judgment, or under a notice of reliance, when permitted, during a party's testimony period. Trademark Rule 2.120(j)(8).

Every paper filed with the Board should list the opposition number and case title on the first page as set forth above. In addition, a document filed in a proceeding before the Board should include the name, in typed or printed form, of the person who signed; a description of the capacity in which he or she signed [e.g. as a corporate officer if the filing party is a corporation]; and his or her business address and telephone number. Trademark Trial and Appeal Board Manual of Procedure (TBMP) §106.02 (3<sup>rd</sup> ed. 2011).

While Patent and Trademark Rule 11.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in cancellation 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.

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. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, 1212 (TTAB 2006).

Disclosure, discovery and trial dates are reset as follows:

Discovery Opens	1/6/2012
Initial Disclosures Due	1/6/2012
Expert Disclosures Due	6/4/2012
Discovery Closes	7/4/2012
Plaintiff's Pretrial Disclosures Due	8/18/2012
Plaintiff's 30-day Trial Period Ends	10/2/2012
Defendant's Pretrial Disclosures Due	10/17/2012
Defendant's 30-day Trial Period Ends	12/1/2012
Plaintiff's Rebuttal Disclosures Due	12/16/2012
Plaintiff's 15-day Rebuttal Period Ends	1/15/2013