

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

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Mailed: August 6, 2012

Cancellation No. 92054139

Phenix Brands, LLC

v.

Stiletto Brands, LLC

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

On June 1, 2012 respondent's attorneys filed a request to withdraw as respondent's counsel of record in this case. The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. The law firm of Adams and Reese, LLP no longer represents respondent in this proceeding.

In view of the withdrawal of respondent's counsel, and in accordance with standard Board practice, proceedings herein are suspended, and respondent is allowed until *thirty days* from the mailing date of this order to appoint new counsel, or to file a paper stating that respondent chooses to represent itself. If respondent files no response, the Board may issue an order to show cause why default judgment should not be

entered against respondent based on respondent's apparent loss of interest in the case.

The Board notes that, pursuant to the June 21, 2011 institution and trial order, petitioner's testimony period closed May 26, 2012. Petitioner has submitted no evidence in support of its claims. Any motion to reopen the testimony period must be supported by a showing of excusable neglect. Fed. R. Civ. P. 6(b).

When proceedings resume, respondent's trial period will be reset. However, where, as here, plaintiff fails to offer any evidence during its testimony period, plaintiff cannot prevail and, thus, defendant need not offer evidence either. See Trademark Trial and Appeal Board Manual of Procedure (TBMP) §534.02 (3rd ed., rev. 2012).

A copy of this order has been sent to all persons listed below.

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