

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

DUNN

Mailed: September 5, 2012

Cancellation No. 92054139

Phenix Brands, LLC

v.

Stiletto Brands, LLC

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

Because it fails to comply with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, the motion filed August 10, 2012 by counsel for petitioner to withdraw as counsel of record in this case is hereby denied without prejudice.

Specifically, the motion does not include one or more of the following requirements: (1) a specification of the basis for the request; (2) a statement that the practitioner has notified the client of his or her desire to withdraw from employment, and has allowed time for employment of another practitioner; (3) a statement that all papers and property that relate to the proceeding and to which the client is

entitled have been delivered to the client; (4) if any part of a fee paid in advance has not been earned, a statement that the unearned part has been refunded; and (5) proof of service of the request upon the client and upon every other party to the proceeding. See Patent and Trademark Rule 10.40, 37 CFR § 10.40. Cf. *In re Legendary Inc.*, 26 USPQ2d 1478 (Comm'r 1992).

The Board notes that its June 21, 2011 institution and trial order set a six month discovery period to end February 26, 2012; set petitioner's trial period to end May 26, 2012; and that petitioner filed no evidence in support of the petition to cancel, and filed no request to suspend proceedings or to extend or to reopen trial periods. The only notice of counsel's intent to withdraw from the case after trial closed with no submission of evidence on behalf of its client comprised a copy of the August 10, 2012 request to withdraw filed with the Board. Thus counsel for petitioner has failed to demonstrate that it has properly protected petitioner's interest by providing notice and time for petitioner to procure a different attorney.

In view thereof, counsel is allowed **THIRTY DAYS** from the mailing date of this order to submit a motion which complies with Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, failing which dates will be reset.

Except to the extent indicated above, proceedings are suspended. The parties will be notified by the Board when proceedings are resumed, and appropriate dates will be rescheduled in due course.

A copy of this order has been sent to persons listed below as well as the parties' address of record.

cc:

PHENIX BRANDS, LLC
2808 INGRAM MILL ROAD
SPRINGFIELD, MISSOURI 65804