

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

GMM

Mailed: December 30, 2015

Cancellation No. 92056642 (parent)
Cancellation No. 92057110

Jeff Miller

v.

*Daphne Hereford and Belleair Trading
International, LLC*

(consolidated)

David Mermelstein, Administrative Trademark Judge:

On August 28, 2015, Petitioner filed a status report of the civil action which occasioned the suspension of these consolidated proceedings.¹ The report was accompanied by an uncertified copy of the Findings of Fact and Conclusions of Law (“the order”) issued on August 21, 2015, by the United States District Court for the Central District of California, ordering the cancellation of Registration, No. 4263551 (the only registration involved in proceeding number 92056642) and Registration Nos. 1763135, 2384745, 2538312, 2969852, 3111161, 3582436 (all six of the registrations involved in proceeding number 92057110).

¹ *Kleven v. Hereford*, United States District Court for the Central District of California, Civil Action No. CV 13-02783-AB (AGRx).

The Board notes, however, that on December 7, 2015, the district court subsequently issued a judgment pursuant to Fed. R. Civ. P. 54(b) in which it ordered the cancellation of the involved registrations and specifically directed the USPTO to cancel them, and that the time to appeal the court's judgment has not expired. *See* Fed. R. App. P. 4(a)(1). The Board considers a civil proceeding to have been finally determined when a decision on the merits of the case (*i.e.*, a dispositive ruling that ends litigation on the merits) has been rendered, and no appeal has been filed, or all appeals filed have been decided. *See* TBMP § 510.02(b). Because the district court's judgment is not final, it is not appropriate to resume these consolidated cancellation proceedings at this time.

Upon resumption of Board proceedings, the parties should note that a *certified* copy of the final judgment must be filed with the Board. *See* TMEP § 1610 (any order affecting a registration must be certified to the USPTO). Accordingly, *after* the court's judgment becomes final, Petitioner should *promptly* file the required certified copy of the court's judgment.

In the meantime, proceedings remain **suspended**.