

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

Baxley

Mailed: April 3, 2014

Cancellation No. 92057838

Albert Patterson

v.

World Wrestling Entertainment, Inc.

**Andrew P. Baxley, Interlocutory Attorney:**

In a March 5, 2014 order, the Board noted that the motion to vacate entry of judgment that petitioner filed on December 18, 2013 (“the December 18, 2013 motion”) did not include acceptable proof of service upon respondent, as required by Trademark Rule 2.119(a), and allowed petitioner until March 20, 2014 to file proof of service of that motion.

Instead of filing proof of service of the December 18, 2013 motion in compliance with the March 5, 2014 order, petitioner, on March 10, 2014, filed by facsimile proof of service of a newly prepared “Motion to Review” (“the March 10, 2014 motion”), with proof of service by priority mail from an Office Depot in Milwaukee, Wisconsin. However, except for *ex parte* notices of appeal, parties may not file submissions with the Board by facsimile. See

Trademark Rule 2.195(d)(3). Moreover, the March 10, 2014 motion is unsigned.<sup>1</sup> See Trademark Rule 2.119(e).

In addition, the March 5, 2014 order allowed petitioner time to file proof of service of the December 18, 2013 motion upon respondent and did not authorize petitioner's filing of a newly prepared motion whereby he appears to seek essentially the same relief. A movant is allowed only a brief and a reply brief in support of a motion. See Trademark Rule 2.127(a). Because respondent had not filed a brief in response to the December 18, 2013 motion, the March 10, 2014 motion is not properly before the Board. Based on the foregoing, the March 10, 2014 motion is not properly before the Board and will therefore receive no consideration.

Although petitioner's March 10, 2014 motion does not comply with the Board's March 5, 2014 order, the Board finds that is appropriate in view of petitioner's attempt at compliance to allow petitioner one last opportunity to comply with that order. Petitioner is allowed until **ten days** from the mailing date set forth in this order to file proof of service of the December 18, 2013 motion upon respondent, failing which the December 18, 2013 motion will receive no consideration. Such proof of service shall be filed by First Class Mail as follows:

I hereby certify that a true and complete copy of the December 18, 2013 motion to vacate entry of judgment was served on respondent World Wrestling Entertainment, Inc. by mailing said

---

<sup>1</sup> The only signature of petitioner's in that submission appears on the Office Depot receipt that petitioner included with the March 10, 2014 motion.

copy on (insert date of mailing), via First Class Mail, postage prepaid to: Christopher M. Verdini, K&L Gates LLP, K&L Gates Center, 210 Sixth Avenue, Pittsburgh, PA 15222.

/signature/  
Albert Patterson, date

The brief in response to the December 18, 2013 motion that respondent filed on March 28, 2014 is noted. If respondent wishes to rely upon that brief in response to petitioner's motion, it is allowed until fifteen days from the date of proof of service of the December 18, 2013 motion to file a submission stating that it so wishes. If respondent files such a submission, petitioner is allowed until fifteen days from the date of service of such submission to file his reply brief (twenty days from the date of service of such submission if such service is by mail).

Further briefing in connection with the December 18, 2013 motion is otherwise due in accordance with Trademark Rules 2.119(c) and 2.127(a). If respondent files an amended brief in response to the December 18, 2013 motion, the original brief in response will be treated as having been withdrawn and will receive no consideration.