

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: June 9, 2016

Cancellation No. 92063567

Google Inc.

v.

Spy Phone Labs LLC

Andrew P. Baxley, Interlocutory Attorney:

The Board's June 3, 2016 order should not have been issued without review by a Board interlocutory attorney and is therefore vacated.

Proceedings herein are suspended pending the Board's decision on Respondent's motion (filed May 27, 2016) to suspend for civil action under Trademark Rule 2.117(a). *See* Trademark Rule 2.117(c). Remaining briefing of that motion is due in accordance with Trademark Rules 2.119(c) and 2.127(a).

On May 27, 2016, Respondent filed a proposed amendment to correct the name of the original applicant for involved Registration No. 3948486 in the USPTO file for that registration. *See* TMEP § 1201.02(c) (April 2016). The amendment does not include proof of service upon Petitioner, as required by Trademark Rule 2.119(a), and therefore will receive no consideration.¹ Because the involved registration is the subject of this pending proceeding, any proposed amendment to that registration

¹ The Board generally defers consideration of unconsented motions to amend until final decision or disposition of the case upon motion for summary judgment. *See* TBMP § 514.03.

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should have been in the form of a motion to amend filed in the Board file for this proceeding.² *See* Trademark Rule 2.133(a); TBMP § 514.01. That is, the proposed amendment should not have been filed in the registration file.

² Respondent is not precluded from properly refileing the proposed amendment in the form of a motion to amend.