

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: September 15, 2016

Cancellation No. 92063588

*Kimberly Simmons*

*v.*

*Go Daddy Operating Company, LLC*

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

In this proceeding, Petitioner seeks cancellation in International Class 9 of Respondent's Registration No. 2558989 for the mark GO DADDY in International Classes 9 and 42. On August 15, 2016, the Board issued an order wherein it, among other things, stated that it would treat Petitioner's July 28, 2016 submission as the amended petition to cancel in this proceeding and set Respondent's time to respond thereto.

That order is modified as follows: On page 2 at line 4, delete "and services." As amended, the sentence at issue states as follows: "In addition, the Board notes that this proceeding is concerned with the registrability of Respondent's mark GO DADDY for the goods recited in involved Registration No. 2558989."<sup>1</sup> To be clear, this proceeding is concerned solely with Respondent's registration in International

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<sup>1</sup> Petitioner is again reminded that allegations that Respondent "stole" Petitioner's general business idea of registering domain names for others are not properly raised before the Board.

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Class 9. Respondent's registration in International Class 42 is not at issue in this proceeding.

On August 23 and 24, 2016, Petitioner filed communications wherein she indicated that she was attempting to file a petition to cancel in International Class 42 only, but was only being allowed to file a petition to cancel in both classes for which Respondent's mark is registered.<sup>2</sup>

Any petition to cancel Respondent's registration in that class should be raised in a new cancellation proceeding, which can be filed through <http://estta.uspto.gov/>. If appropriate, any such new proceeding may be consolidated with this proceeding.

On September 7, 2016, in lieu of an answer to the amended petition to cancel, Respondent filed a second motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim. Proceedings herein are suspended pending disposition of that motion. *See* Trademark Rule 2.127(d).

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<sup>2</sup> The Trademark Trial and Appeal Board's general telephone number is 571-272-8500.