

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

Baxley

Mailed: July 10, 2009

Opposition No. 91186607

T-Rex Cafe, Inc.

v.

Devin William Breaux

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

The Board's June 18, 2009 order is clarified as follows.

By way of the proposed amendment that applicant filed on May 29, 2009, applicant, among other things, seeks to "disclaim any use of the mark ... in connection with operating a restaurant or café." As noted in the June 18, 2009 order, the disclaimer is improper because it constitutes a disclaimer of the entire mark. See *Dena Corp. v. Belvedere Int'l Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); TBMP Section 1213.06 (5th ed. 2007).

Moreover, applicant has applied to register the mark ACT LIKE A T-REX DAY for "Aprons, Shirts; Baby bibs not of paper; Headwear; Hooded sweatshirts; Infant wear; Baby tops; Boxer Shorts; Jackets; Underwear; Sweat shirts; Tank tops specifically related to the annual event celebrated on the

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first Friday in April" in International Class 25.

Applicant, in his involved application, does not seek to register his mark for restaurant or café services. Thus, even if the parties have agreed that applicant will not use his mark in connection with restaurant or café services as part of a settlement agreement, the proposed disclaimer is not properly included in any registration that arises from the involved application.

The June 18, 2009 order otherwise stands. Dates remain as set in the Board notice instituting this proceeding.