

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

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Mailed: June 8, 2009

Opposition No. 91188698

Football Fanatics, Inc.

V.

Fanatics, Inc.

**Frances S. Wolfson, Interlocutory Attorney:**

On April 3, 2009, applicant's attorneys filed a request to withdraw as applicant's counsel of record in this case. The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. The law firm of Morgan, Lewis & Bacchius LLP no longer represents applicant in this proceeding.

In view of the withdrawal of applicant's counsel, and in accordance with standard Board practice, proceedings typically are suspended. However, inasmuch as applicant filed a notice of intent to represent itself on April 16, 2009, proceedings need not be suspended. Applicant has elected to represent itself in this matter.

On May 6, 2009, opposer filed a motion to suspend proceedings, with applicant's consent. Because the parties

are negotiating for a possible settlement of this case, proceedings herein are suspended until August 8, 2009, subject to the right of either party to request resumption at any time prior thereto. See Trademark Rule 2.117(c).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume without further notice or order from the Board, upon the schedule set out below.

Proceedings resume: August 8, 2009.

Deadline for Discovery Conference	8/14/09
Discovery Opens	8/14/09
Initial Disclosures Due	9/13/09
Expert Disclosures Due	1/11/10
Discovery Closes	2/10/10
Plaintiff's Pretrial Disclosures Due	3/27/10
Plaintiff's 30-day Trial Period Ends	5/11/10
Defendant's Pretrial Disclosures Due	5/26/10
Defendant's 30-day Trial Period Ends	7/10/10
Plaintiff's Rebuttal Disclosures Due	7/25/10
Plaintiff's 15-day Rebuttal Period Ends	8/24/10

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.

### **General Information for Applicant**

While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter parts proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.<sup>1</sup>

One rule that applicant must pay particular attention to is **Trademark Rule 2.119**. That rule requires that a party filing any paper with the Board during the course of a proceeding must serve a copy on its adversary, unless the adversary is represented by counsel, in which case, the copy must be served on the adversary's counsel. With the paper that is filed with the Board, the party filing the paper must include "proof of service" of the copy. "Proof of

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<sup>1</sup> The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is also available on the World Wide Web at <http://www.uspto.gov>.

service" usually consists of a signed, dated statement attesting to the following matters: (1) the nature of the paper being served, (2) the method of service (e.g., first class mail), (3) the person being served and the address used to effect service, and (4) the date of service.

Applicant should note that it is responsible for ensuring that the Board has its current correspondence address. If a party fails to notify the Board of a change of address, with the result that the Board is unable to serve correspondence on the party, default judgment may be entered against the party. See TBMP § 117.07 (2d ed. rev. 2004).

Applicant should note that any paper it is required to file with the Board should not take the form of a letter; proper format should be utilized. The form of submissions is governed by Trademark Rule 2.126. See also TBMP § 106.03 (2d ed. rev. 2004). Also, applicant should note that any paper it is required to file herein must be received by the Patent and Trademark Office by the due date, unless one of the filing procedures set forth in Trademark Rules 2.197 and 2.198 is utilized. These rules are in Part One of Title 37 of the Code of Federal Regulations.

Applicant may access some of the materials referred to above by logging onto <http://www.uspto.gov> and making the connection to trademark materials. The files of this Board proceeding can be examined using TTABVUE, accessible at

<http://ttabvue.uspto.gov>. (after entering the 8-digit proceeding number, click on any entry in the prosecution history to view that paper in PDF format). The latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, is available for a fee from U.S. Government Printing Office on the World Wide Web at <http://bookstore.gpo.gov>.

Finally, the Board's manual of procedure will be helpful. The first revision of the second edition (March 2004) of the Trademark Trial and Appeal Board Manual of Procedure (TBMP) has been posted on the USPTO web site at [www.uspto.gov/web/offices/dcom/ttab/tbmp/](http://www.uspto.gov/web/offices/dcom/ttab/tbmp/).