

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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JK

November 4, 2019

Opposition No. 91241481

Smokey Island Grille LLC

v.

*The Tai Walker Company, LLC and
Ty Walker*

J. Krisp, Interlocutory Attorney:

The Board notes Applicants' October 13, 2019 submission informing the Board that they will represent themselves in this proceeding. 19 TTABVUE. The Board has updated the correspondence data for Applicants in this proceeding.

Applicants' Motion to Resume

On February 6, 2019, the Board suspended proceedings pursuant to Trademark Rule 2.117(a) pending the final determination of a civil action, namely, New York Kings County Supreme Court Case No. 506912/2018, which Applicants referenced in their January 18, 2019 motion to suspend. 10 TTABVUE.

Shortly thereafter, on March 15, 2019, Applicants filed a motion to reinstate, which the Board construes as a motion to resume proceedings. Applicants provided only a brief explanation, stating "counsel has now learned that the issues in the New York matter will not directly affect the rights of the parties in the present matter."

12 TTABVUE 2. TBMP § 510 (June 2019). In response, Opposer states, inter alia, that the outcome in the civil action will directly affect the outcome in this opposition because the issues therein are about the ownership of a business named Smokey Island Grille that is owned by Smokey Island Grille LLC.

Inasmuch as neither party has made of record a copy of the operative pleadings in the civil action, and in view of the passage of time since Applicants moved to resume proceedings, the Board's consideration of the contested motion to resume is **deferred** pending the filing of a response to this order.

The parties are allowed until **thirty days from the date of this order** in which to submit 1) a copy of the operative pleadings, as well as any final order or mandate issued in the civil action, and 2) a statement or brief setting forth, at a minimum, the current status of the civil action.

Proceedings otherwise **remain suspended** pending a response to this order.

The parties should notify the Board of any address or email address changes for the parties or their attorneys.

Information for Pro Se Party

While Patent and Trademark Rule 11.14 permits any person to represent itself, it is strongly advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes 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. *See* TBMP § 114.02.

Trademark Rules 2.119(a) and (b) require that every submission filed in a proceeding before the Board **must** be served upon the other party or parties, and proper proof of such service must be made before the submission will be considered by the Board. The statement will be accepted as prima facie proof of service, must be signed and dated, and should take the form of a Certificate of Service as follows:

I hereby certify that a true and complete copy of the foregoing (insert title of submission) has been served on (insert name of opposing counsel or party) by forwarding said copy on (insert date of mailing), via email (or insert other appropriate method of delivery) to: (set out name, address, and email address of opposing counsel or party).

Signature _____
Date _____

Submissions in Board proceedings must be made via ESTTA, the Electronic System for Trademark Trials and Appeals, and must be in compliance with Trademark Rules 2.126(a) and (b). *See* TBMP § 110.01. The ESTTA user manual, ESTTA forms, and instructions for their use are at <http://estta.uspto.gov/>.

It is recommended that any pro se party be familiar with the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice. Parties should also be familiar with the Trademark Trial and Appeal Board Manual of Procedure (TBMP), available at <http://www.uspto.gov/ttab>, the TTABVUE system for viewing the record for all Board proceedings, available at <http://ttabvue.uspto.gov/ttabvue/>, and the Standard Protective Order, available at <https://www.uspto.gov/trademarks-application-process/appealing-trademark-decisions/standard-documents-and-guidelines-0>.

Strict compliance with the Trademark Rules of Practice, and where applicable the Federal Rules of Civil Procedure, is required of all parties, whether or not they are represented by counsel. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006), *aff'd unpub'd*, 240 Fed. Appx.865 (Fed. Cir. 2007), *cert. denied*, 552 U.S. 1109 (2008).