

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  
General Email: [TTABInfo@uspto.gov](mailto:TTABInfo@uspto.gov)

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May 6, 2022

Opposition No. 91274167

*The North Face Apparel Corp.*

*v.*

*Balance Athletica, LLC and LODO IP, LLC  
Joined as Party Defendant*

**J. Krisp, Interlocutory Attorney:**

**ASSIGNMENT**

A review of the assignment record reveals that on March 15, 2022, Balance Athletica, LLC assigned the entire interest of Application Serial 90332530 to LODO IP, LLC. The assignment was recorded with the Assignment and Recordation Branch of the USPTO on March 22, 2022 at Reel/Frame 7673/0457.

When there has been an assignment of a mark that is the subject of, or relied upon in, an inter partes proceeding before the Board, the assignee may be joined or substituted, as may be appropriate, upon the Board's own initiative. *See* Section 10 of the Trademark Act, 15 U.S.C. § 1060; TBMP § 512. The assignee may be substituted as a party if the assignor is no longer in existence, the assignment occurred prior to the commencement of the proceeding, the discovery and testimony periods have closed, or the opposing party raises no objection to substitution;

otherwise the assignee will be joined, rather than substituted, to facilitate discovery. *See* TBMP § 512.01.

Inasmuch as the assignment occurred after this proceeding commenced, and nothing in the record indicates that Balance Athletica, LLC is no longer in existence, joinder, rather than substitution, is appropriate in this matter. *See NSM Resources Corp. v. Microsoft Corp.*, 113 USPQ2d 1029, 1031 (TTAB 2014). Accordingly, LODO IP, LLC is hereby joined as defendant in this proceeding and the caption is amended to reflect the joinder.<sup>1</sup>

Dates remain as set in the Board's January 26, 2022 order.

**STIPULATED PROTECTIVE ORDER**

The stipulated protective agreement filed on April 27, 2022 is noted and its use in this proceeding is approved. *See* Trademark Rule 2.116(g).

The parties are referred, as appropriate, to TBMP §§ 412.04 (Filing Confidential Materials With Board), and 412.05 (Handling of Confidential Materials by the Board). The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing Trademark Rules 2.27(d) and (e), which provide that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection. The Board may treat as not confidential that material which cannot reasonably be

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<sup>1</sup> If joint defendants are or become represented by different counsel, the defendants may be required to appoint one lead counsel to supervise and coordinate the conduct of the defendants' cases and to provide one point of contact with the Board. *Cf.* TBMP § 511.

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considered confidential, notwithstanding a designation as such by a party. *See* Trademark Rule 2.116(g).