

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

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Mailed: August 22, 2006

Cancellation No. 92045556

JULEE ANN, LLC

v.

JULI ANNE LLC

**Jyll S. Taylor, Attorney:**

The notice instituting this proceeding and a copy of the petition to cancel were forwarded to registrant but were returned by the Postal Service as undeliverable. On April 10, 2006, the Board remailed the institution order and a copy of the petition to cancel to Stockton Bates, Juli Anne LLC, 1434 Cedar Point Rd., Heathsville, VA 22473, but they also may have been returned as undeliverable.

Thereafter, respondent, on April 26, 2006, filed a communication, including a change of address, with the Board.<sup>1</sup> Respondent's communication does not indicate proof of service of a copy of the same on counsel for petitioner as required by Trademark Rule 2.119. To expedite matters, a copy of the filing is forwarded to petitioner with its copy

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<sup>1</sup> The address indicated in the communication: is Stockton T. Bates, 1434 Cedar Point Rd., Heathsville, VA 22473.

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of this order. Respondents are advised that future filings will not be considered unless they are served on counsel for petitioner in accordance with Trademark Rule 2.119.

A review of respondents' communication reveals that respondents have obtained a copy of the petition for cancellation.<sup>2</sup> Notably, in addition to being a change of address, respondents' communication addresses the petition to cancel. However the response is argumentative and unclear in purpose. Specifically, respondents state that "[t]he petition to cancel (Cancellation No. 92045556) the Juli anne trademark (registration #2724431) has been received and rejected. We have actively been using this trademark since 1079 and the trademark was issued 6/10/03." While this response appears to be a denial of the single allegation set forth in the petition to cancel, and that respondents intend to defend the petition, the Board will not make such presumptions.

During the pleading stage of a proceeding, the parties are simply to state the relevant facts, as they see them, and which they will attempt to prove during trial. The answer must be a "pleading" directly responsive to the notice of opposition. The petition for cancellation consists of a single allegation. It is incumbent on

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<sup>2</sup> Images of TTAB proceeding files can be viewed (and printed) using TTABVue at <http://ttabvue.uspto.gov>..

respondents to respond to that allegation by either admitting the truth of the allegation or denying that the allegation is true. If respondents are without sufficient information to form an opinion as to the truth or falsity of the allegation, then respondents may say so without risk; such a response is considered to have the same effect as a denial.

In view of the foregoing, respondents are allowed until **thirty days** from the mailing date of this order to file a proper answer which complies with Fed. R. Civ. P. 8.

The above referenced rules on filing a responsive pleading are set forth in Rule 8(b) of the Federal Rules of Civil Procedure. Inasmuch as it appears that respondents intend to represent themselves in these proceedings, they should note the following. The Trademark Rules of Practice, other federal regulations governing practice before the Patent and Trademark Office, and many of the Federal Rules of Civil Procedure govern the conduct of this opposition proceeding. Respondents will have to familiarize themselves with the rules governing this proceeding. Strict compliance with the Trademark Rules and all other applicable rules is expected of all parties, even those representing themselves.

The Trademark Rules are codified in part two of Title 37 of the Code of Federal Regulations (also referred to as the CFR). The CFR and the Federal Rules of Civil Procedure,

are likely to be found at most law libraries, and may be available at some public libraries.<sup>3</sup>

One rule that respondents 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 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.

Also, respondents should note that any paper they are 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 Patent and Trademark Rules 2.197 and 2.198 is utilized.<sup>4</sup> These rules are in part two of Title 37 of the previously-discussed Code of Federal Regulations.

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<sup>3</sup>The Trademark Rules are also available on the World Wide Web at [www.uspto.gov](http://www.uspto.gov). Additional information may be obtained in The Trademark Trial and Appeal Board Manual of Procedure, (TBMP) which is also available on the World Wide Web at [www.uspto.gov](http://www.uspto.gov).

<sup>4</sup>Additionally, TTAB forms for electronic filing of inter partes filings are now available at <http://estta.uspto.gov>.

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As indicated above, respondents are allowed until **THIRTY DAYS** from the mailing date of this order in which to file a proper answer. A copy of the answer must be served on counsel for petitioner, whose name and address is set forth at the end of this order. Proof of service must be included with the answer.

Trial dates, including the close of discovery, are reset as indicated below.

THE PERIOD FOR DISCOVERY TO CLOSE:	February 25, 2007
30-day testimony period for party in position of plaintiff to close:	May 26, 2007
30-day testimony period for party in position of defendant to close:	July 25, 2007
15-day rebuttal testimony period to close:	September 8, 2007

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.

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Opposer's Counsel's Address:  
Patrick Avakian  
Kleinberg & Lerner, LLP  
2049 Century Park East, Suite 1080  
Los Angeles, CA 90067