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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048994
Party	Plaintiff adidas North America, Inc., Reebok International, Ltd., Nike, Inc. and New Balance Athletic Shoe, Inc.
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Attachments	Motion for Reconsideration of Dismissal.pdf ( 4 pages )(15739 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

adidas North America, Inc., Reebok International, Ltd., Nike, Inc., and New Balance Athletic Shoe, Inc.

**Petitioners,**

v.

Tanel Corporation, f/k/a Tanel Acquisition Group, Inc.,

**Registrant.**

Cancellation No.: 92048994

Registration No.: 1,484,334

Mark: **360°**

Registration Date: April 12, 1988

**MOTION FOR RECONSIDERATION OF DISMISSAL OF PETITION TO  
CANCEL WITH PREJUDICE**

Pursuant to TBMP § 543 and 37 C.F.R. § 2.129(c),<sup>1</sup> Petitioners, adidas North America, Inc. (“adidas”), Reebok International, Ltd. (“Reebok”), and Nike, Inc. (“Nike”) move for reconsideration of the dismissal with prejudice of Cancellation Proceeding No. 92048994 against Registration No. 1,484,334. As demonstrated below, Petitioners adidas, Reebok, and Nike did not stipulate to dismissal of the cancellation proceeding. The stipulation for dismissal was only between former Petitioner New Balance Athletic Shoe, Inc. (“New Balance”) and Registrant Tanel Corporation, f/k/a/ Tanel Acquisition Group, Inc. based on a settlement between only those two parties.

On March 7, 2008, four separate parties jointly filed a Petition to Cancel Registration No. 1,484,334. *See* TBMP § 303.06 (“Two or more parties may file an opposition or a petition for cancellation jointly.”). Pursuant to TBMP § 303.06, each of the parties was named as a Petitioner. Each of the Petitioners alleged standing to petition cancellation, including allegations of continued damage by Registration No. 1,484,334, and each

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<sup>1</sup> To the extent the order on stipulation for dismissal is not deemed a “final decision,” remaining Petitioners move for reconsideration pursuant to TBMP § 518 and 37 C.F.R. § 2.127(b).

petitioned to cancel that registration. *See* Petition to Cancel at pp. 1, 5; TBMP § 303.06. The signature block on the Petition to Cancel shows the four separate Petitioners and clearly states which attorneys represent each. *See id.* at pp. 5–6.

On Friday, February 27, 2009, Petitioner New Balance filed a “Stipulation for Dismissal as to Petitioner New Balance Athletic Shoe, Inc. Pursuant to Settlement Agreement.” Notably, the dismissal referred only to a stipulated dismissal between New Balance and Registrant Tanel Corporation on grounds that New Balance and Tanel Corporation entered into a settlement agreement. The remaining Petitioners, adidas, Reebok, and Nike, did not enter into the stipulation. Moreover, New Balance was careful to request dismissal with prejudice only “as to Petitioner New Balance pursuant to TBMP 601.02.” *See* New Balance’s Feb. 27, 2009 Stipulation of Dismissal at p. 1 (emphasis added).

Notwithstanding New Balance’s request for dismissal only as to New Balance, on Saturday, February 28, 2009, the Board issued an order that appears to dismiss the Petition to Cancel with prejudice as to all petitioners. Because New Balance’s stipulated dismissal “as to Petitioner New Balance” was filed pursuant to a settlement agreement between New Balance and Registrant exclusively, that stipulated agreement should not be enforced against the remaining Petitioners, who were not parties to that agreement.

In the interests of fairness, the Board should reinstate the cancellation proceeding as to adidas, Reebok, and Nike. To streamline the case before the Board, the parties filed a single consolidated cancellation proceeding, and the remaining petitioners respectfully submit that a joint proceeding remains appropriate due to the common questions of fact and law. *See* TBMP § 305 (“A consolidated notice of opposition, or petition to cancel, or a combined notice of opposition and petition to cancel, is appropriate if the plaintiff’s claims

against each of the defendant's subject applications, and/or registrations, involve common (i.e., similar) questions of law or fact.”). According, adidas, Reebok and Nike request the Board simply remove New Balance and reinstate the cancellation proceedings.

Date: March 5, 2009

Respectfully submitted,

**LOTT & FRIEDLAND, P.A.**

/s/ Jaime S. Rich

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and forgoing **MOTION FOR RECONSIDERATION OF DISMISSAL OF PETITION TO CANCEL WITH PREJUDICE** was sent via U.S. Mail on this 5th day of March, 2009, addressed as follows:

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