

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

Faint

Mailed: September 11, 2010

Cancellation No. 92049292

Sportade Corporation ehf and  
Soccerade Ireland Ltd.<sup>1</sup>

v.

Arax Balakian

In response to the Board's order of May 28, 2010 to show cause why petitioner's failure to file a brief should not be treated as a concession of this case, petitioner filed a withdrawal of the petition to cancel in accordance with the parties' co-existence agreement, together with a redacted copy of the agreement.<sup>2</sup>

By way of background information, on January 23, 2009, Abigail Rubinstein and Paul Fields, of the firm Darby & Darby, P.C., filed a "notice of change of correspondent" on behalf of respondent, requesting that the mail address for respondent be

---

<sup>1</sup> An assignment of application Serial No. 78925944 was recorded in the USPTO assignments database at Reel/Frame No. 4160 / 0843. It is the practice of the Board to join an assignee when the assignment occurred after the commencement of the proceeding in order to facilitate discovery. See TBMP § 512 (2d ed. rev. 2004). Accordingly, Soccerade Ireland Ltd. is joined as party plaintiff.

updated to name them as correspondents of record.<sup>3</sup> On July 20, 2009, Janik Marcovici, and the law firm of Perman & Green LLP filed a signed change of correspondence address, naming Perman & Green LLP as representative for a group of registrations, including the one at issue in this cancellation proceeding. The Board entered this change of correspondence address, in accordance with Trademark Rule 2.18(a). On July 6, 2010, Joseph Gamberdell, Jr. of Perman & Green filed a "notice of improper service" stating that it does not represent respondent in this matter, but otherwise providing no explanation regarding the change of correspondence address the firm filed on respondent's behalf.<sup>4</sup> Telephone calls placed by the Board to the attorneys of record at Darby & Darby were referred to voice recordings noting that the firm was in the process of dissolution, and the attorneys named in this proceeding were no longer with the firm. No further information regarding the new addresses for these attorneys has been filed.

---

<sup>2</sup> The show cause order for failure to file a brief is discharged.

<sup>3</sup> The request noted that Amy J. Benjamin was no longer with the firm of Darby & Darby.

<sup>4</sup> Attached to the filing were copies of documents "showing correspondence between Attorneys for Petitioner and Darby & Darby regarding this matter." The Board notes that all of these documents pre-date the filing of the change of correspondence address in favor of Perman & Green LLP in this matter. We also note that Perman & Green did not file any "notice of improper service" regarding the Board's order of May 28, 2010.

The Board will not normally send correspondence to more than one address on behalf of a party. In a case such as this, where the counsel previously of record cannot be located, and new counsel has entered a correspondence address of record, the Board will correspond with the party named in that address of record. See Trademark Rule 2.18; TBMP § 117.02 (2d ed. rev. 2004). Accordingly, despite counsel's "notice of improper service," the Board finds Janik Marcovici of Perman & Green LLP to be the correspondent of record on behalf of respondent in this case.<sup>5</sup> Out of fairness to respondent, however, the Board will forward a copy of this order to respondent's mailing address of record.

Trademark Rule 2.114(c) provides that after an answer is filed, the petition to cancel may not be withdrawn without prejudice except with the **written** consent of respondent. The signed co-existence agreement submitted by petitioner also requests dismissal with prejudice. Accordingly, the petition to cancel is dismissed with prejudice.

*By the Trademark Trial  
and Appeal Board*

---

<sup>5</sup> To the extent counsel may have intended its filing to be construed as a withdrawal of counsel, it does not comply with Trademark Rule 10.40, and is denied. See TBMP § 116.05(2d ed. rev. 2004).

Cancellation No. 92049292

CC:

MATTHEW P. MOORE  
MOSES & SINGER LLP  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174

JANIK MARCOVICI  
PERMAN & GREEN, LLP  
99 HAWLEY AVENUE  
STAMFORD, CT 06614

ARAX BALAKIAN  
57 CRABTREE LANE  
TENAFLY NEW JERSEY 07670