

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

Mailed: May 21, 2009

Cancellation No. 92051001
Registration No. 2933524

Inchworm, Inc.
19 Hampton Street,
Boston, MA 02119 UNITED STATES

Maidenform, Inc.

v.

Inchworm, Inc.

Robert A. Becker
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza,
New York, NY 10017 UNITED STATES

Denise M. DelGizzi, Supervisory Paralegal Specialist

A petition to cancel the above-identified registration has been filed. A service copy of the petition for cancellation was forwarded to registrant (defendant) by the petitioner (plaintiff). An electronic version of the petition for cancellation is viewable in the electronic file for this proceeding via the Board's TTABVUE system:
<http://ttabvue.uspto.gov/ttabvue/>.

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations ("Trademark Rules"). These rules may be viewed at the USPTO's trademarks page: <http://www.uspto.gov/main/trademarks.htm>. The Board's main webpage (<http://www.uspto.gov/web/offices/dcom/ttab/>) includes information on amendments to the Trademark Rules applicable to Board proceedings, on Alternative Dispute Resolution (ADR), Frequently Asked Questions about Board proceedings, and a web link to the Board's manual of procedure (the TBMP).

Plaintiff must notify the Board when service has been ineffective, within 10 days of the date of receipt of a returned service copy or the date on which plaintiff learns that service has been ineffective. Plaintiff has no subsequent duty to investigate the defendant's whereabouts, but if plaintiff by its own voluntary investigation or through any other means discovers a newer correspondence address for the defendant, then such address must be provided to the Board. Likewise, if by voluntary investigation or other means the plaintiff discovers information indicating that a different party may have an interest in



06-05-2009

defending the case, such information must be provided to the Board. The Board will then effect service, by publication in the Official Gazette if necessary. See Trademark Rule 2.118. In circumstances involving ineffective service or return of defendant's copy of the Board's institution order, the Board may issue an order noting the proper defendant and address to be used for serving that party.

Defendant's ANSWER IS DUE FORTY DAYS after the mailing date of this order. (See Patent and Trademark Rule 1.7 for expiration of this or any deadline falling on a Saturday, Sunday or federal holiday.) Other deadlines the parties must docket or calendar are either set forth below (if you are reading a mailed paper copy of this order) or are included in the electronic copy of this institution order viewable in the Board's TTABVue system at the following web address: <http://ttabvue.uspto.gov/ttabvue/>.

Defendant's answer and any other filing made by any party must include proof of service. See Trademark Rule 2.119. If they agree to, the parties may utilize electronic means, e.g., e-mail or fax, during the proceeding for forwarding of service copies. See Trademark Rule 2.119(b)(6).

The parties also are referred in particular to Trademark Rule 2.126, which pertains to the form of submissions. Paper submissions, including but not limited to exhibits and transcripts of depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.

| | |
|---|------------|
| Time to Answer | 6/30/2009 |
| Deadline for Discovery Conference | 7/30/2009 |
| Discovery Opens | 7/30/2009 |
| Initial Disclosures Due | 8/29/2009 |
| Expert Disclosures Due | 12/27/2009 |
| Discovery Closes | 1/26/2010 |
| Plaintiff's Pretrial Disclosures | 3/12/2010 |
| Plaintiff's 30-day Trial Period Ends | 4/26/2010 |
| Defendant's Pretrial Disclosures | 5/11/2010 |
| Defendant's 30-day Trial Period Ends | 6/25/2010 |
| Plaintiff's Rebuttal Disclosures | 7/10/2010 |
| Plaintiff's 15-day Rebuttal Period Ends | 8/9/2010 |

As noted in the schedule of dates for this case, the parties are required to have a conference to discuss: (1) the nature of and basis for their respective claims and defenses, (2) the possibility of settling the case or at least narrowing the scope of claims or defenses, and (3) arrangements relating to disclosures, discovery and introduction of evidence at trial, should the parties not agree to settle the case. See Trademark Rule 2.120(a)(2). Discussion of the first two of these three subjects should include a discussion of whether the parties wish to seek mediation, arbitration or some other means for resolving their dispute. Discussion of the third subject should include a discussion of whether the Board's Accelerated Case Resolution (ACR) process may be a more efficient and economical means of trying the involved claims and

United States Patent and Trademark Office

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA. 22313-1451

If Undeliverable Return in Ten Days

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

92051001

INCHEM, INC., 100
19 HAMPDEN ST.,
BOSTON, MA 02118

02195

|||||

SS
N