

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

dmd/al

Mailed: May 11, 2015

In re Sparta Beverage LLC

Serial No. 77530392

Filed: 7/24/2008

Denise M. DelGizzi,
Chief Clerk of the Board:

On April 6, 2015, Applicant filed a request to suspend proceedings herein pending a final determination in application Serial Nos. 85567313, for the mark SPARTAN FUEL for “dietary and nutritional supplements”; and 77567596 for the mark SPARTAN for “ready-to-drink prepared colored whey-protein infused hydrating beverages with added flavoring, namely, whey beverages.” Both applications are pending before the Trademark Operation.

Applicant contends that application Serial Nos. 85567313 and 77567595 are confusingly similar to his mark, and that registration of one or both of those marks will violate his due process and equal protection rights, and will provide legal basis as to why his mark should be registered.

Pursuant to Trademark Trial and Appeal Board Manual of Procedure § 1213 (June 2014), prior to the issuance of the Board’s decision in an ex parte appeal,



07-10-2015

proceedings with respect to the appeal may be suspended by the Board upon written request by the applicant, with a showing of good cause for the requested suspension. Following are examples of situations in which the Board may suspend proceedings in an appeal, for good cause shown.

1. The application is involved in a civil action, or a Board inter partes proceeding, that may be dispositive of the issue(s) involved in the appeal – the Board may suspend pending final determination of a the civil action or Board inter partes proceeding.
2. Another application that involves the same issue is also on appeal to the Board – the Board may suspend pending final determination of the appeal in the other application.
3. A registration cited as a reference, under Trademark Act § 2(d), 15 U.S.C. § 1052(d), against applicant's mark is due, or will soon be due, for an affidavit of continued use (or excusable nonuse) under Trademark Act § 8 or Trademark Act § 71.....

Insofar as the disposition of application Serial Nos. 85567313 and 77567595 does not appear to have any bearing on this proceeding, the Board does not find good cause to suspend proceedings herein. In view thereof, Applicant's request is denied. Applicant is allowed until thirty (30) days from the mailing date of this order in which to file its brief on appeal.¹

A request for an oral hearing, if desired, must be made not later than ten days after the due date for applicant's reply brief.

¹ Applicant's remedy lies in filing a notice of opposition or petition to cancel, as would be appropriate.

Applicant's change of correspondence address is noted. The Board record has been updated to reflect the change.

