

ESTTA Tracking number: **ESTTA504467**

Filing date: **11/08/2012**

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

Proceeding	79096066
Applicant	OCI Nitrogen B.V.
Applied for Mark	OCI
Correspondence Address	TODD A DENYS PORZIO BROMBERG & NEWMAN PC 29 THANET ROAD, SUITE 201 PRINCETON, NJ 08540 UNITED STATES tadenys@pbnlaw.com
Submission	Applicant's Motion to Suspend
Attachments	2247768-Motion_to_Suspend.PDF (3 pages)(26092 bytes)
Filer's Name	Todd A. Denys
Filer's e-mail	tadenys@pbnlaw.com
Signature	/todd a denys/
Date	11/08/2012

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

Matter: In re OCI Nitrogen B.V.
Applicant: OCI Nitrogen B.V.
Mark: OCI
Serial No.: 79/096,066
Filed: March 17, 2011
Classes: 1 and 37
Examining Attorney: Jessica Ellinger Fathy
Law Office 110

MOTION TO SUSPEND

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

Pursuant to Sections 510 and 1212 of the TTAB Manual of Examining Procedure, Applicant respectfully requests suspension of the above-captioned matter.

Applicant submits this Motion to Suspend in good faith and for good cause because, pursuant to TMEP § 714.05(d), an Examiner's Subsequent Final Refusal has been issued in connection with the application in question, Serial No. 79/096,066. The Examiner's Subsequent

Final Refusal was issued because the Examining Attorney found the Letter of Consent to Registration that was submitted to overcome the Trademark Section 2(d) refusal of Serial No. 79/096,066 to be a “naked consent.” At this time, Applicant has until February 28, 2013 to submit a more “clothed” consent that would result in the Examiner’s withdrawal of the Trademark Section 2(d) refusal and obviate the instant appeal. *See The Tamarkin Co. v. Seaway Food Town Inc.*, 34 USPQ2d 1587 (TTAB 1995) (proceedings to be resumed if consent agreement did not overcome Examining Attorney’s Trademark Act Section 2(d) refusal). Should Applicant fail to submit a more “clothed” consent by February 28, 2013, the appeal could then be resumed so that Applicant and the Examiner could submit their briefs in connection with this appeal.

For the foregoing reasons, Applicant respectfully requests that the above-captioned matter be suspended while the outstanding Examiner’s Subsequent Final Refusal remains pending.

Respectfully Submitted,

OCI Nitrogen B.V.

Dated: November 8, 2012

BY: /todd a denys/

Todd A. Denys, Esq.
Porzio Bromberg & Newman P.C.
29 Thanet Road, Suite 201
Princeton, New Jersey 08540
Tel: (609) 924-8555
Fax: (609) 924-3036
tadenys@pbnlaw.com
Attorneys for Applicant

CERTIFICATE OF FILING

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via the Trademark Trial and Appeal Board's Electronic System for Trademark Trials and Appeals [ESTTA] on-line filing process.

November 8, 2012
(Date of Deposit)

/todd a denys/
(Signature)

November 8, 2012
(Date of Signature)