

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

Baxley

Mailed: August 2, 2005

Opposition No. **91120519**

Exxon Mobil Corporation

v.

Dataworx B.V.

Andrew P. Baxley, Interlocutory Attorney:

This case now comes up for consideration of opposer's motion (filed May 5, 2005) to suspend proceedings herein pending disposition of a civil action in which the parties are involved.¹ The motion has been fully briefed.

In support of its motion, opposer contends that, inasmuch as the civil action will determine applicant's right to use and register the involved DEXXON mark, suspension of this case is appropriate.

In response thereto, applicant contends that opposer has failed to provide sufficient evidence of a pending civil action. In particular, applicant contends that it has not been served with a copy of the complaint in the civil action

¹ The civil action is styled *Exxon Mobil Corporation v. Dexxon Digital Storage, Inc. and Dataworx B.V.*, Case No. 3-05CV-0918M, filed May 5, 2005 in the United States District Court for the Northern District of Texas.

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and that the copy of the complaint that opposer included as an exhibit to its motion does not include a case number or indicia that it was filed with the court.

In reply, opposer filed clerk-stamped copy of the complaint which includes a case number and which indicates that the complaint was filed on May 5, 2005.

After reviewing the complaint in the civil action, the Board finds that the civil action has a bearing on this case in that opposer asks that the district court provide the same relief that opposer seeks herein, namely refusal of registration of the mark in applicant's involved application. Inasmuch as the district court's findings in connection therewith will be binding upon the Board, suspension of this case is appropriate. See *American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn 1986); Trademark Rule 2.117(a); TBMP Section 510.02(a) (2d ed. rev. 2004).

Accordingly, opposer's motion to suspend is hereby granted. Proceedings are suspended pending final disposition of Case No. 3-05CV-0918M.

Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the parties or their attorneys.