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

In re Trademark Application of:
ROBERT NILS ACKERBLOOM

Application Serial No. 76/431,622

Published: January 27, 2004

04-05-2004
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

Mark: **STERLING**

STERLING POWER BOATS, INC. Opposer, V. ROBERT NILS ACKERBLOOM Applicant.	))))))))	Opposition No. 91159570

STIPULATED MOTION TO SUSPEND

STERLING POWER BOATS, INC. (Opposer) and ROBERT NILS ACKERBLOOM ("Applicant") move, by stipulation, to suspend all further proceedings in the Notice of Opposition identified above pursuant to 37 C.F.R. Sec. 2.117(a) and Rule 510.02(a)of the Rules of Practice of the Trademark Trial and Appeal Board pending the outcome of a parallel proceeding between the parties currently pending in the U.S. District Court for the Middle District of Florida.

As grounds for said motion, Applicant hereby states as follows:

1. As set forth in the subject Notice Of Opposition, filed on or about February 24, 2004, Opposer alleges it will be damaged by the Applicant's use and registration of the mark

STERLING as applied to "boats" in International Class 12 due to the Opposer's alleged prior use of the mark **STERLING** on or in connection with boats.

2. On or about January 20, 2004, Applicant, through his related companies Maritec Industries, Inc. and American Marine Sports, LLC, brought suit for infringement of its trademark **STERLING** or, in the alternative, for a declaratory judgement of non-infringement against Opposer in the United States District Court for the Middle District of Florida, Ocala Division, Case No. 5-04-CV-25-OC-106RT (the "Florida Action"). A true and correct copy of the complaint in the Florida Action was attached to the Notice of Opposition as Exhibit A thereto.

3. The Florida Action remains pending before the court as of this writing.

4. The parties concur that the factual and legal issues in the Florida Action as related to the use, ownership and registration of the mark **STERLING** as applied to boats are identical to the grounds set forth in opposition to the registration of the subject mark in the subject Notice of Opposition.

6. Accordingly, because the U.S. District Court for the Middle District of Florida has been asked to decide the identical issues set forth in the subject Notice of Opposition, the court's ruling will be dispositive and binding upon the Board in this instance (*see*, *e.g.*, Goya Foods Inc. v. Tropicana Products Inc., 846 F.2d 848, 6 USPQ2d 1950 (2nd Cir. 1988)). Therefore, in view of same, and by stipulation further to the Opposer's express request for suspension in its Notice of Opposition (see Notice of Opposition, Par. 10) and by consent further to an electronic mail message from counsel for the Opposer on March 31, 2004, the parties respectfully request that this proceeding be suspended pending final determination of the Florida Action. *See* 37 C.F.R. Sec. 2.117(a); General Motors Corp. v. Cadillac Club Fashions Inc., 22 USPQ2d 1933 (TTAB 1992).

WHEREFORE, for the reasons set forth above, it is respectfully requested that all further proceedings in the opposition proceeding be suspended pending the outcome of the civil proceeding currently pending between the parties in the United States District Court for the Middle District of Florida, Ocala Division, Case No. 5-04-CV-25-OC-106RT.

Dated: March 31, 2004

Respectfully submitted,

David L. Sigalow, Esq.
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 South Orange Avenue, Suite 1401
Orlando, Florida 32802
Phone: (407) 841-2330
Fax: (407) 841-2343
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a true and correct copy of the foregoing **MOTION TO SUSPEND** was served on the attorney of record for Opposer by first class mail, postage prepaid, in an envelope addressed as follows:

Douglas W. Kenyon, Esq.
Robert C. Van Arnan, Esq.
Hunton & Williams
P.O. Box 109
Raleigh, North Carolina 27602

this 31st day of March, 2004.

David L. Sigalow
March 31, 2004
Date of Deposit

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

In re Trademark Application of:
ROBERT NILS ACKERBLOOM

Application Serial No. 76/431,622

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Mark: **STERLING**

STERLING POWER BOATS, INC. Opposer, V. ROBERT NILS ACKERBLOOM Applicant.	)))))))))	Opposition No. 91159570

ANSWER TO NOTICE OF OPPOSITION

ROBERT NILS ACKERBLOOM ("Applicant"), by and through his undersigned counsel, hereby answers the Notice of Opposition as follows:

1. Applicant admits the allegations of Paragraph 1 of the Notice of Opposition.

2. Applicant is without sufficient information knowledge or knowledge to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and therefore denies same.

3. Applicant is without sufficient information knowledge or knowledge to form a belief as to the truth of the allegations of Paragraph 3 of the Notice of Opposition and therefore denies same.

4. Applicant admits the allegations of Paragraph 4 of the Notice of Opposition.

5. Applicant admits that on July 17, 2002, Applicant filed trademark application serial No. 76/431,622 for the mark **STERLING**, and that said application alleged use of the mark in commerce as applied to "boats" since at least as early as March 2002. Applicant is, however, without sufficient information knowledge or knowledge to form a belief as to the truth of the remaining allegations of Paragraph 5 of the Notice of Opposition concerning the use of the mark by the Opposer and therefore denies same.

6. Applicant denies the allegations of Paragraph 6 of the Notice of Opposition.

7. Applicant denies the allegations of Paragraph 7 of the Notice of Opposition and therefore denies same.

8. Applicant admits the allegations of Paragraph 8 of the Notice of Opposition.

9. Applicant admits that the named plaintiffs in the concurrent federal lawsuit pending in the United States District Court for the Middle District of Florida are, at present, Maritec Industries , Inc. and American Marine Sports, LLC. Applicant does, however, deny the remaining allegations of Paragraph 9 of the Notice of Opposition.

10. Applicant concurs with the request for suspension as set forth in Paragraph 10 of the Notice of Opposition, as set forth in the Motion for Suspension filed simultaneously herewith.

11. Applicant is without sufficient information knowledge or knowledge to form a belief as to the truth of the allegations of Paragraph 11 of the Notice of Opposition and therefore denies same.

WHEREFORE, for the reasons set forth above, it is respectfully requested that the Notice of Opposition be denied.

Dated: March 31, 2004

Respectfully submitted,

David L. Sigalow, Esq.
Allen, Dyer, Doppelt, Milbrath & Gilchrist, P.A.
255 South Orange Avenue, Suite 1401
Orlando, Florida 32802
Phone: (407) 841-2330
Fax: (407) 841-2343
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below a true and correct copy of the foregoing **ANSWER TO NOTICE OF OPPOSITION** was served on the attorney of record for Opposer by first class mail, postage prepaid, in an envelope addressed as follows:

Douglas W. Kenyon, Esq.
Robert C. Van Arnan, Esq.
Hunton & Williams
P.O. Box 109
Raleigh, North Carolina 27602

this 31st day of March, 2004.

David L. Sigalow
March 31, 2004
Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRANSMITTAL FORM

[redacted]

Title: Sterling Power Boats, Inc. v. Robert Nils Ackerbloom
Opposition No. 91159570
Mark: **STERLING**
Class(es): 12
Client: Maritec Industries, Inc.
Atty. Docket No.: 37451

04-05-2004
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

I am enclosing the following documents for filing for the above-noted matter:

✓ 1. Stipulated Motion to Suspend
✓ 2. Answer to Notice of Opposition
✓ 3. Postcard.
✓ 4. Duplicate copy of this letter.

Please charge any amounts due or credit any overpayment to our firm's Deposit Account No. 01-0484. We are enclosing a duplicate copy of this letter for that purpose.

Respectfully submitted,

Date: March 31, 2004

David L. Sigalow
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dsigalow@addmg.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box TTAB, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514, on March 31, 2004.

Elizabeth Toney
Signature

March 31, 2004
Date of Deposit