

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

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V SECRET CATALOGUE, INC. and
INTIMATE BEAUTY CORPORATION
D/B/A VICTORIA'S SECRET BEAUTY,

Opposers,

v.

ZO BRANDS, LLC,
(formerly JONATHAN PONSARD and
ZOPPINI, LLC,

Applicant.
-----X

TTAB

Opposition
No. 91,161,849



10-12-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

**APPLICANT'S MOTION TO STAY OPPOSITION
PROCEEDING AND ALL CURRENT DEADLINES**

Applicant Zo Brands, LLC (by assignment from Zoppini LLC and Jonathon Ponsard) hereby files this Motion to Stay the above identified Opposition proceeding, as well all current deadlines in such Opposition, pursuant to section 510.02 of the Trademark Trial and Appeal Board Manual of Procedure ("TBMP"), in view of a prior pending Opposition proceeding involving the Opposer. As support for this Motion Applicant states:

1. Opposers filed its Notice of Opposition on August 26, 2004.
2. One main alleged basis relied on in the Notice of Opposition is Opposers' pending application for the mark So Sexy which was filed on November 19, 2001 (U.S. Application Serial Number 78/094,035).

3. However Opposers' '035 application, is itself subject to an Opposition proceeding before the Board (Opposition number 91/125,739 - "the '739 Opposition").
4. Ordinarily, the Board will suspend proceedings in a case where the earlier proceeding will have a bearing on issues before the Board. TBMP section § 510.02:.
5. In view of the earlier '739 Opposition involving Opposers' '035 application, Applicant respectfully request that the above identified Opposition along with all current deadlines in the Opposition, be stayed or suspended pending the final disposition of Opposers '035 application in Opposition number 91/215,739.

MEMORANDUM OF LAW

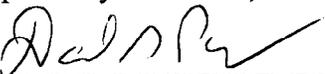
Pursuant to 37 C.F.R. § 2.117(a) the Board may suspend a proceeding pending a final determination of another Board proceeding involving at least one of the parties.

As referenced above, the '739 Opposition relates to Opposers' '035 application, which is an intent-to-use application. In the current Opposition, Opposer is relying on the filing date of '035 application as an alleged basis for denying registration to Applicant. The priority filing date for the '035 application is contingent on the '035 application ultimately issuing into a registration. Thus, if the Opposer Sexy Hair Concepts in the '739 Opposition is successful in opposing the '035 application, the '035 application will not mature into a registration and the current Opposer will lose the priority filing date of '035 application.

Accordingly, the decision in the earlier '739 Opposition has a significant bearing on the issues of this current Opposition proceeding. As such, Applicant respectfully requests that the Board stay or suspend this proceeding, including all deadlines running in this proceeding, (which also includes all Discovery Response deadlines), until a final ruling in the '739 Opposition has been decided by the Board.

Applicant has requested Opposers consent to this Motion to which Opposer has indicated that they are not in agreement to.

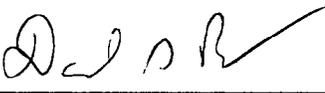
Respectfully submitted,

By 

Daniel S. Polley
Attorney for Applicants
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(954) 234-2417

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Motion to Proceeding and all Current Deadlines has been forwarded via First Class Mail, postage prepaid, to Opposer's attorney of record Frank J. Colucci, at Manhattan Tower, 101 East 52nd Street, New York, New York 10022 this 7th day of October, 2004.

By 

Daniel S. Polley
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1215 East Broward Blvd.
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(954) 234-2417

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CERTIFICATE OF MAILING

I hereby certify that the foregoing APPLICANT'S MOTION TO STAY OPPOSITION PROCEEDING AND ALL CURRENT DEADLINES, and any attachments thereto, is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Trademarks, P.O Box 1451, Alexandria, VA 22313-1451, Attn: T.T.A.B.

This 7th day of October, 2004.


FRANCES RINALDI