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

\_\_\_\_\_  
NICOLE LAMBERT

Opposer,

v.

CROMOSOMA, S.A..

Applicant

Opposition No. 91162868

\_\_\_\_\_  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**APPLICANT'S MOTION TO SUSPEND  
IN LIEU OF FILING AN ANSWER**

Applicant hereby requests that the above identified Opposition be suspended. Applicant has petitioned to cancel Registration No. 2,251,561 based on non-use. The cancellation action (92041371) remains pending. It is submitted that a determination by the Trademark Trial and Appeal Board that Opposer has abandoned the registered mark on the registered goods will have a direct impact on the proceedings herein, and therefore suspension is warranted. Applicant's Brief in support thereof is set forth below.

**CERTIFICATE OF MAILING**

**Date of Deposit : December 16, 2004**

I hereby certify that this correspondence is being deposited with the United States Postal service as First Class Mail in an envelope addressed: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

**JULIE B. SEYLER**

  
Signature



12-22-2004

**BRIEF**

On December 20, 2002, Applicant filed a Petition to Cancel Registration No.

2,251,561 The cancellation was based on abandonment and alleged that Opposer had failed to



use the registered mark, in commerce on any of the goods identified in the registration for three consecutive years prior to the date the cancellation was filed. The Petition to Cancel was filed only after good faith investigations were conducted to determine if there was a bona fide use in commerce.

Opposer denied the allegations. As stated in Paragraph 5 of the Notice of Opposition the cancellation proceeding is still pending, with trial briefing completed by both parties on September 16, 2004.

37 C.F.R. 2.117 (a) provides that:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.

It is submitted that the resolution of the pending cancellation action will have a bearing on the opposition. The proceedings involve the same parties and the same registration relied on by Opposer in the opposition. It is therefore respectfully requested that the Motion to Suspend be granted.

In the event this Motion is denied, it is requested the term for filing an Answer to the Opposition be reset.

Respectfully submitted,

  
JULIE B. SEYLER

**ABELMAN FRAYNE & SCHWAB**  
**150 East 42nd Street**  
**New York, New York 10017**  
**212-949-9022**

### **CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing was served by first class mail, postage prepaid this 16th day of December, 2004 upon the following:

Laura Popp-Rosenberg, Esq.  
Fross Zelnick Lehrman & Zissu, P.C.  
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JULIE B. SEYLER