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

Proceeding	91164778
Party	Plaintiff Airtruk/Seatruk Inc. Airtruk/Seatruk Inc. 147-60 175th Street Jamaica, NY 11434 UNITED STATES
Correspondence Address	Michael R. Gilman Kaplan & Gilman, LLP 900 Route 9 North Woodbridge, NJ 07095 UNITED STATES mgilman@ksgd.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	Michael R. Gilman
Filer's e-mail	mgilman@ksgd.com
Signature	/Michael R. Gilman/
Date	01/11/2006
Attachments	Motion to Suspend and for Reconsideration.pdf (9 pages)

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

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AIRTRUK/SEATRUK INC.,	:		
	:		
Opposer,	:		Opposition No. 91164778
	:		Serial No. 76/548,401
v.	:		
	:		
AIR TRACTOR INC.,	:		
	:		
Applicant.	:		
-----	X		

MOTION ON CONSENT TO SUSPEND PROCEEDINGS

AND

**MOTION ON CONSENT FOR RECONSIDERATION
OF OPPOSER'S APPLICATION SERIAL NOS. 78/339,011 AND 78/339,043
BASED UPON THE PARTIES' "CONSENT TO USE AND REGISTER" AGREEMENT**

The parties have now entered into an agreement entitled Consent To Use And Register (hereinafter the "Consent Agreement"), which Consent Agreement is attached hereto as Exhibit "A".

As stated in the Consent Agreement, the parties agree, amongst other things, based upon their years of experience in their respective fields of trade, that there is no likelihood of confusion between their respective marks, as those marks are applied to their respective goods and services, and that each may register their respective marks.

The parties further agree in the Consent Agreement to the placing of this Opposition Proceeding on suspended status, pending the acceptance of the Consent Agreement in Opposer's suspended Application Nos. 78/339,011 and 78/339,043.

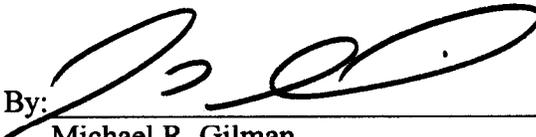
Accordingly, the parties further request herein that the Board either itself rule upon the acceptability of the Consent Agreement or forward the same to the Examining Attorney(s) responsible for Opposer's applications for the Examining Attorney(s) to so rule.

Pursuant to paragraph 3 of the Consent Agreement, this combined Motion is consented to by Applicant.

WHEREFORE, the parties respectfully request the Board to:

1. Suspend Opposition No. 91164778; and either
2. Approve the parties' "Consent to Use and Register" agreement and enter the same into Opposer's Application Serial Nos. 78/339,011 and 78/339,043 and move the same forward to allowance, or direct the respective Examining Attorney(s) to enter the same therein and move the applications forward to allowance; or
3. Forward the parties' "Consent to Use and Register" agreement to the respective Examining Attorneys of Opposer's Application Serial Nos. 78/339,011 and 78/339,043, for approval and allowance of the applications.

Respectfully submitted,
KAPLAN GILMAN GIBSON & DERNIER LLP
Attorneys for Opposer
900 Route 9 North
Woodbridge, New Jersey 07095
(732) 634-7634

By: 
Michael R. Gilman
mgilman@kggd.com

Dated: January 11, 2006

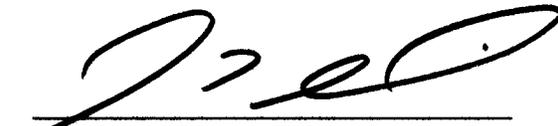
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CERTIFICATE OF SERVICE

I, Michael R. Gilman, hereby certify that on this 11th day of January, 2006, I caused a true and correct copy of the document entitled, "MOTION ON CONSENT TO SUSPEND PROCEEDINGS AND MOTION ON CONSENT FOR RECONSIDERATION OF OPPOSER'S APPLICATION SERIAL NOS. 78/339,011 AND 78/339,043 BASED UPON THE PARTIES' "CONSENT TO USE AND REGISTER" AGREEMENT" to be served, by first class mail, postage prepaid, upon the following:

Charles M. Hosch, Esq.
Lauren T. Becker, Esq.
Strasburger & Price, LLP
901 Main Street, Ste 4300
Dallas, TX 75202-3794
(214) 651-4300

Attorneys for Applicant
Air Tractor Inc.



Michael R. Gilman

EXHIBIT "A"

CONSENT TO USE AND REGISTER

This Consent to Use and Register ("Consent Agreement") is entered into this 15th day of December, 2005, between Airtruk/Seatruk Inc., a New York corporation located and doing business at 147-60 175th Street, Jamaica, New York 11434 ("Airtruk/Seatruk") and Air Tractor, Inc., a Texas corporation located and doing business at 1584 Airport Rd., Olney, Texas 76374 ("Air Tractor").

WHEREAS, Airtruk/Seatruk owns the marks AIRTRUK SEATRUK and AIRTRUK SEATRUK and Design, and has filed applications for such marks in the United States Patent and Trademark Office ("USPTO") on December 10, 2003 in connection with "ocean freight forwarding and freight transportation by sea, namely, freight consolidation and deconsolidation" in International Class 39, which applications have Serial Nos. 78/339,011 and 78/339,043, respectively, and claim dates of first use of the marks at least as early as March 1, 1994;

WHEREAS, Air Tractor owns a pending and published intent to use application for the mark AIR TRUCK, namely, U.S. Application Serial No. 76/548,401, filed in the USPTO on September 15, 2003 and published on December 14, 2004, covering "flying vehicles, namely, airplanes" in International Class 12;

WHEREAS, Airtruk/Seatruk's applications have been put on suspension by the USPTO examiner pending final disposition of Air Tractor's application, based upon the examiner's belief that Airtruk/Seatruk's mark, when used in connection with its services, would be likely to be confused by consumers with Air Tractor's goods sold under its mark;

WHEREAS, Airtruk/Seatruk has commenced an opposition proceeding in the USPTO, before the Trademark Trial and Appeal Board ("Board"), assigned Opposition No. 91164778, against Air Tractor's Application No. 76/548,401, in which Air Tractor has filed an Answer;

WHEREAS, the parties wish to resolve the opposition and any other dispute between them regarding the use of their respective marks;

NOW, THEREFORE, in consideration of the mutual covenants and considerations set forth herein, the parties agree as follows:

1. Airtruk/Seatruk and Air Tractor agree, based upon their years of experience in their respective fields of trade, that neither Airtruk/Seatruk's continued use of its marks AIRTRUK SEATRUK and AIRTRUK SEATRUK and Design in connection with its above stated services, or Air Tractor's commencement of use of its mark AIR TRUCK on its above stated goods, will result in a likelihood of consumer confusion.

2. The parties further agree that each of them may seek to register their respective marks in the USPTO in connection with their respective goods and/or services, and that no confusion is likely to result by virtue of the coexistence of both parties' registration of their marks in the USPTO. Air Tractor agrees that Airtruk/Seatruk may present this document to the USPTO in support of its applications to register its marks.

3. The parties further agree that they will jointly petition the Board to suspend Opposition No. 91164778, based upon Airtruk/Seatruk's filing in both of its

applications a Request For Reconsideration, in which such Requests For Reconsideration are based upon the submission of this Consent Agreement for approval by the examiners in each case and allowance of each case. However, should this procedure prove not to be appropriate, the parties agree to dismiss Opposition No. 91164778, without prejudice, and that contemporaneously therewith, or whenever appropriate thereafter, Airtruk/Seatruk shall file this Consent Agreement in its pending applications. Should the examiners not accept the Consent Agreement and not allow both of Airtruk/Seatruk's applications, Air Tractor agrees to cooperate with Airtruk/Seatruk to reach and enter into a modification to this Consent Agreement that is acceptable to the examiners. Should allowance of Airtruk/Seatruk's applications not result from the above, Airtruk/Seatruk may appeal the examiners' decisions and/or petition to cancel Air Tractor's registration.

4. Air Tractor agrees never to contest any use, application or registration, anywhere, by Airtruk/Seatruk for any mark containing either, or both, of the terms "Airtruk" or "Seatruk", so long as any such use and/or application and/or registration are not for any type of airplane and so long as the marks of such use/application/registration are spelled as found herein, and do not contain the letter "c"; i.e., are not spelled "Airtruck" or "Seatruck".

5. Airtruk/Seatruk agrees never to contest any use, application or registration, anywhere, by Air Tractor for the mark "Air Truck", so long as any such use and/or application and/or registration are not for any type of freight carriage, forwarding or consolidation/deconsolidation services or for any type of import/export services, and

so long as the marks of such use/application/registration are spelled as found herein, and (1) do not combine the terms "Air" and "Truck" into one compound word (i.e., "Airtruck"); and (2) do not remove the letter "c" (i.e., are not spelled "Air Truck").

6. Airtruk/Seatruk will not use or authorize use of the mark "Air Truck" in any manner calculated to suggest an association or connection between itself and Air Tractor, or others, or between the respective goods and/or services of these entities.

7. Air Tractor will not use or authorize use of the marks "Airtruk Seatruk", "Airtruk Seatruk and design" (as applied for in Application No. 78/339,043), or any mark containing the words "Airtruk" and/or "Seatruk", or any term substantially similar thereto, except "Air Truck" as is provided for in this Consent Agreement, in any manner calculated to suggest an association or connection between itself and Airtruk/Seatruk, or others, or between the respective goods and/or services of these entities. Air Tractor further agrees not to use or authorize use of any mark containing a design that is substantially similar to, or likely to be confused with, the double headed arrow design as it is shown in Airtruk/Seatruk's Application No. 78/339,043, whether with or without words.

8. The parties agree that they shall cooperate in taking any reasonable action to avoid confusion and to correct any instances of likelihood of confusion which may come to their attention arising out of their respective uses of their marks.

9. If not accepted by the USPTO for the purpose of allowing any application by Airtruk/Seatruk to register its marks as recited above, this Consent Agreement shall not be relied upon for purposes of evidence or argument in any manner by either party.

10. This Consent Agreement is executed by the duly authorized representatives of the parties and is effective on the date set forth above.

By: Kristin Edwards
Name: Kristin Edwards
Title: Vice President, Sales
Executed: December 15, 2005

By: [Signature]
Name: KEANE ROSENBERG
Title: President
Executed: JAN 3, 2005

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