

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

Randall Publishing Company, Inc.

Application No.: 78582076

Opposer,

v.

Opposition No.: 91168463

TR Information Publishers

Applicant.

**OPPOSER'S MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF  
FEDERAL LITIGATION**

Pursuant to Rule 510.02(a), of the United States Patent and Trademark Office Rules of Practice and the applicable Federal Rules of Civil Procedure, Opposer, RANDALL PUBLISHING COMPANY, requests that this Board suspend the instant Board proceeding until entry of a final judgment in the pending Federal civil litigation, and would show as follows:

1. Rule 510.02(a) of the United States Patent and Trademark Office Rules of Practice plainly states, "[w]henver its comes to the attention of the Board that a party or parties to a case pending before it are involved in a civil action which may have a bearing on the Board case, proceedings before the Board may be suspended until final determination of the civil action" Rule 510.02(a); 37 CFR §2.117(a); *General Motors v. Cadillac Club Fashions*, 22 USPQ2d 1933 (TTAB 1992).

2. On April 25, 2005, Applicant, TR Information Publishers, filed a Federal Civil action styled: TR Information Publishers, Inc., v. Randall Publishing Company, Inc., Case No.: 8:05-cv-00517-JSM-MSS, which is currently pending before the United States District Court for the Middle District of Florida Tampa Division.

07-19-2006

U.S. Patent & TMOFc/TM Mail Rept Dt. #22

Boyd Mustelier Smith & Parker

Bank of America Tower at International Place, 36<sup>th</sup> Floor • 100 S. E. Second Street • Miami, Florida 33131

Ph: (786) 425-1045 • Fax: (786) 425-3905 • www.boydlawgroup.com

3. The subject matter of the pending Federal action is identical to that of the current Application before this Board; specifically, the mark 'NATIONAL TRUCK STOP DIRECTORY' is in dispute. Currently that action is in the late discovery stage, with the dispositive motion deadline set for August 7, 2006. Moreover, a jury trial is set to begin on November 6, 2006.

4. "Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board." See 37 CFR §2.117(a). "To the extent that a civil action in a Federal district court involves issues in common with those in a proceeding before the Board, the decision of the Federal district court is often binding upon the Board, while the decision of the Board is not binding upon the court" *Goya Foods v. Tropicana Products*, 846 F.2d 848 (2d Cir. 1988).

WHEREFORE, OPPOSER, RANDALL PUBLISHING COMPANY, hereby moves that this Honorable Board suspend the current proceedings on Application no. 78582076, until the entry of final judgment in the Federal litigation styled: TR Information Publishers, Inc., v. Randall Publishing Company, Inc., et al., Case No.: 8:05-cv-00517-JSM-MSS, and for any other relief it may deem just and proper.

#### CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail to **H. William Larson, Esq., and Ruth E. Freeburg, Esq.,** Larson & Larson, P.A.,

11199 69<sup>th</sup> Street North, Largo, Florida 33773, this 19<sup>th</sup> day of July, 2006.

BOYD MUSTELIER SMITH & PARKER, P.L.

*Counsel for Opposer*

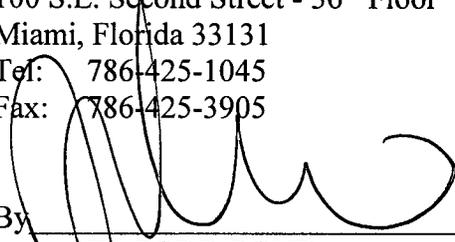
Bank of America Tower at International Place

100 S.E. Second Street - 36<sup>th</sup> Floor

Miami, Florida 33131

Tel: 786-425-1045

Fax: 786-425-3905

By 

W. TODD BOYD

Fla. Bar No. 770558

DIANA VIZCAINO

Fla. Bar No. 479284

JOSEPH A. GARCIA

Fla. Bar No. 838411