

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Baxley

Mailed: April 9, 2007

Opposition No. 91168610

Opposition No. 91174554

Becker Designs, Inc.

v.

Biker Design, Inc.

Andrew P. Baxley, Interlocutory Attorney:

Consideration of applicant's petitions to disqualify Kathryn Weston and the law firm of Cobb and Cole from representing opposer in the above-captioned proceedings is deferred in view of the following.

In addition to the above-captioned proceedings,¹ the parties are involved in a civil action styled *Becker Designs, Inc. v. Biker Design, Inc.*, Case No. 6:06-cv-56, filed in the United States District Court for the Middle District of Florida. After reviewing the complaint in the civil action, the Board finds that suspension of the above-captioned proceedings is appropriate under Trademark Rule 2.117(a) because the district court's findings will have a

¹ Opposition No. 91168610 was suspended during trial, while Opposition No. 91174554 was suspended prior to the close of the discovery period. Accordingly, the Board finds that consolidation of the proceedings is inappropriate. See *Lever Brothers Co. v. Shaklee Corp.*, 214 USPQ 654 (TTAB 1982) ; TBMP Section 511 (2d ed. rev. 2004).

bearing on opposer's likelihood of confusion claims in these proceedings. More importantly, the district court's findings will be binding upon the Board. See *American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn 1986); *Other Telephone Co. v. National Telephone Co.*, 181 USPQ 79 (Comm'r Pats. 1974); and *Whopper-Burger, Inc. v. Burger King Corp.*, 171 USPQ 805 (TTAB 1971). These considerations outweigh the fact that there are pending motions to disqualify Kathryn Weston and the law firm of Cobb and Cole from representing opposer herein.

Therefore, in the interest of judicial economy and consistent with the Board's inherent authority to regulate its own proceedings to avoid duplicating the effort of the district court and the possibility of reaching an inconsistent conclusion, proceedings in these proceedings are suspended indefinitely pending final determination, i.e., following the termination of any appeals and remands, of Case No. 6:06-cv-56. See Trademark Rule 2.117(a).

Annual inquiry may be made as to the status of the civil action. Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the

parties or their attorneys. If necessary, the motions to disqualify Kathryn Weston and the law firm of Cobb and Cole from representing opposer will be considered when proceedings herein are resumed.