

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

Mailed: February 12, 2007

Opposition No. 91170863

Sexy Hair Concepts, LLC

v.

Perfect Plus, Inc.

Ann Linnehan, Interlocutory Attorney

On November 30, 2006, the Board suspended proceedings herein for a period of six months for the purposes of settlement negotiations.

This case now comes up for consideration of opposer's motion (filed January 16, 2007) to resume proceedings. The motion has been fully briefed.

In support of its motion, opposer states that "there are no ongoing settlement discussions between the parties and the matter has not been resolved."

In response, applicant contends that proceedings should remain suspended pending the outcome of another Board proceeding in which opposer is involved with a third-party, namely, Opposition No. 91125739. Applicant argues that this opposition proceeding is similar to Opposition No. 91125739 in that opposer herein bases both oppositions on its registration for the mark SO SEXY.

In reply, opposer argues that proceedings should be resumed because the initial suspension period upon which the parties agreed "was predicated on settlement discussions, then ongoing, which have terminated with no settlement reached." Additionally, opposer contends because neither the parties nor the facts in this proceeding are identical with those in Opposition No. 91125739 further suspension is unwarranted.

When the Board becomes aware "that a party or parties to a pending case are engaged in ... another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the ... other Board proceeding." Trademark Rule 2.117(a). See also TBMP 510.02(a) (2d ed. rev. 2004).

The Board finds that the final determination of Opposition No. 91125739 will not necessarily impact any determinations made in this proceeding. In particular, the parties are not identical and the arguments set forth in defense of each opposition are different. Therefore, the Board finds that resumption of proceedings herein is appropriate.

In view thereof, opposer's motion to resume proceeding is granted.

Proceedings are hereby resumed.

DISCOVERY PERIOD TO CLOSE:

5/18/2007

Plaintiff's 30-day testimony period to close: **8/16/2007**

Defendant's 30-day testimony period to close: **10/15/2007**

Plaintiff's 15-day rebuttal testimony period to close: **11/29/2007**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.