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

Proceeding	91184986
Party	Defendant Brazil Cigars & Tobacco, LLC
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Submission	Motion to Suspend for Civil Action
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Attachments	motion to suspend.pdf ( 3 pages )(15438 bytes )

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

**In The Matter of Trademark Application No. 76/651,966**

Menendez Amerino & Cia Ltda,	)	
	)	
Opposer,	)	
	)	
vs.	)	Opposition No. 91184986
	)	
Brazil Cigars & Tobacco, LLC,	)	
	)	
Applicant.	)	
_____	)	

**MOTION TO SUSPEND  
PENDING DISPOSITION OF DISTRICT COURT ACTION**

Applicant, Brazil Cigars & Tobacco, LLC, (hereinafter “Applicant” or “Brazil Cigars”), by and through undersigned counsel, and pursuant to Trademark Rule 2.117(a), hereby files this Motion to Suspend Pending Disposition of District Court Action, and in support thereof states as follows:

On or about July 2, 2008 Opposer filed its Notice of Opposition alleging that “Opposer is the owner of all right and title and interest in and to the trademark ALONSO MENENDEZ.” (D.E. 1). Since that time, counsel for Opposer and Applicant entered into numerous stipulations for suspension and/or extension of time in the hope that the parties might reach a mutually agreeable settlement. However, on May 4, 2009 Opposer filed a complaint in United States District Court for the Southern District of Florida alleging a number of causes of action including trademark infringement of its alleged “ALONSO MENENDEZ” trademark. See Menendez Amerino & Cia. Ltda. v. Brazil Cigars & Tobacco, LLC, Case No. 09-21185-civ-HOEVELER/GARBER, United States District Court for the Southern District of Florida. On June 8, 2009 Applicant counterclaimed in the District Court Action for unfair competition related

to Opposer's unauthorized use of the mark directly at issue in this Opposition Proceeding, namely, Serial No. 76/651,966 for "ALONSO MENENDEZ" for use in connection with tobacco products, namely, cigars and cigarillos.

**MEMORANDUM OF LAW**

Trademark Rule 2.117(a) states 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.

The Federal District Court Action identified above has a direct bearing on the instant Opposition Proceeding as it is between the same parties and concerns the same mark, namely, "ALONSO MENENDEZ."

WHEREFORE, Applicant respectfully requests that the Board suspend this proceeding pending final determination of Menendez Amerino & Cia. Ltda. v. Brazil Cigars & Tobacco, LLC, Case No. 09-21185-civ-HOEVELER/GARBER, United States District Court for the Southern District of Florida.

Respectfully submitted,  
ROTHSTEIN ROSENFELDT ADLER

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on

Lawrence E. Abelman, Esq.  
Julie B. Selyer, Esq.  
ABELMAN FRAYNE & SCHWAB  
666 Third Avenue  
New York, New York 10017

by electronic mail as well as by United States FIRST CLASS U.S. MAIL, postage pre-paid  
this 18<sup>th</sup> day of August, 2009.

By: s/GUSTAVO SARDIÑA  
Frank Herrera, Esq.  
Florida Bar No. 494801  
Gustavo Sardiña  
Florida Bar No. 31162

**CERTIFICATE OF ELECTRONIC FILING USING ETTSA**

I HEREBY CERTIFY that on August 18, 2009 a true and correct copy of the foregoing was  
filed electronically using the TTAB's ETTSA filing system.

By: s/GUSTAVO SARDIÑA  
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