

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

MBA

Mailed: December 10, 2009

Opposition No. 91185256

Room Service Home, LP and R
S Design, Inc. d/b/a Room
Service by Ann Fox

v.

Room Service Interiors, Ltd.

Michael B. Adlin, Interlocutory Attorney:

This case now comes up for consideration of opposer Room Service Home, LP's ("RSH") motion, filed August 26, 2009, to suspend this proceeding pending its ongoing bankruptcy proceeding (In re Room Service Home, LP, Case No. 09-34735-bjh7, pending in the U.S. Bankruptcy Court for the Northern District of Texas) (the "Bankruptcy Proceeding"). RSH contends in its sparse motion that "the results in the bankruptcy will likely have a bearing on the issues before the Board," but does not explain how or why.

In response, applicant points out that because RSH is one of the two plaintiffs in this proceeding, and applicant has not filed a counterclaim, RSH "does not qualify for an automatic stay under the U.S. Bankruptcy Code, 11 U.S.C. §§ 301-302." Applicant further argues that suspension would be

"inappropriate," because "this proceeding involves multiple opposers," and "there is no reason that opposer, R S Design, Inc. ['RSD'] could not continue this proceeding." Finally, applicant alleges that it would be prejudiced by a suspension, which would further delay registration of applicant's mark.¹

"Whenever it 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." TBMP § 510.02(a) (2d ed. rev. 2004). Furthermore, the Board will suspend its proceeding where a defendant (including a counterclaim defendant) is involved in a bankruptcy proceeding, but there is no automatic stay where, as here, the plaintiff is involved in a bankruptcy proceeding. Id.

In this case, the parties are not involved in a civil action; rather, RSH is involved in the Bankruptcy Proceeding. RSH has not argued, much less established, that the Bankruptcy Proceeding may have a bearing on this one. Furthermore, as applicant argues and RSH does not dispute, there appears to be no reason why RSD cannot proceed to trial, and in fact RSH has not provided any reason why it

¹ RSH did not file a reply brief.

Opposition No. 91185256

cannot proceed to trial. RSH's motion is therefore hereby **DENIED**. Trial and disclosure dates are reset as follows:

| | |
|---|--------------------------|
| Discovery Closes | CLOSED |
| Plaintiff's Pretrial Disclosures | January 11, 2010 |
| Plaintiff's 30-day Trial Period Ends | February 25, 2010 |
| Defendant's Pretrial Disclosures | March 12, 2010 |
| Defendant's 30-day Trial Period Ends | April 26, 2010 |
| Plaintiff's Rebuttal Disclosures | May 11, 2010 |
| Plaintiff's 15-day Rebuttal Period Ends | June 10, 2010 |

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.
