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Filing date: **04/02/2010**

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

Proceeding	91187906
Party	Plaintiff University of Wyoming
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Signature	/Allison M. Scott/
Date	04/02/2010
Attachments	University of Wyoming v. Super Bakery_Unopposed Motion to Suspend Proceeding.pdf (3 pages)(13326 bytes)

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

UNIVERSITY OF WYOMING,)	
)	
)	
)	
v. Opposer,)	In the matter of Application
)	Serial No. 77/383,001
)	for the mark COWBOYADE
)	Opposition No. 91187906
SUPER BAKERY, INC.,)	
)	
)	
Applicant.)	

OPPOSER’S UNOPPOSED MOTION TO SUSPEND PROCEEDING

Pursuant to 37 C.F.R. § 2.117(c) and TBMP § 510.02(a), Opposer, University of Wyoming moves to suspend the above-cited proceeding pending the Board’s disposition of the motion for summary judgment pending in *Oklahoma State University v. Super Bakery, Inc.*, Opposition No. 91187908.

Under Trademark Law 2.117(c), the Board may, in its discretion, suspend proceedings pending the resolution of a related case “[w]henver it shall come to the attention of the [Board] that a party or parties to a pending case are engaged in . . . another Board proceeding which may have a bearing on the case.” As the wording of this Rule plainly states, the “related proceeding” need not involve the same parties in order for suspension to be granted. Indeed, in *Argo & Co., Inc. v. Carpetsheen Manufacturing, Inc.*, the Board granted a motion to suspend the opposition proceedings despite the fact that opposer was not involved in the related state litigation. 187 U.S.P.Q. 366, 367 (T.T.A.B. 1975); *see also* TBMP § 510.02(a).

Here, University of Wyoming and Oklahoma State University have both filed separate opposition actions against Applicant’s application to register the mark COWBOYADE (Serial

No. 77/383,001). In *Oklahoma State University v. Super Bakery, Inc.*, Oklahoma State University filed a motion for summary judgment, which is scheduled to be taken up for consideration on April 5, 2010. *See* Opp. No. 91187908, Dkt. Nos. 7, 23. While the disposition of Oklahoma State University's motion for summary judgment is not necessarily determinative of the issues in this opposition, it could have a bearing on the parties' claims and defenses in the current opposition. *See Argo & Co., Inc.*, 187 U.S.P.Q. at 367 (state court proceeding found to have a bearing on the issues involved in the opposition where the determination of the state action could potentially result in the applicant's right to file the application being declared *void ab initio*). Accordingly, University of Wyoming submits this unopposed motion to suspend the instant action pending the disposition of Oklahoma State University's motion for summary judgment in *Oklahoma State University v. Super Bakery, Inc.*

On March 31, 2010, Counsel for Opposer, Alicia Grahn Jones, conferred with Counsel for Applicant, David Oberdick, and Applicant did not oppose this motion.

Dated: April 2, 2010

Respectfully submitted,

/s/Allison M. Scott
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing UNOPPOSED MOTION TO SUSPEND PROCEEDING has been served on counsel for Applicant by mailing a copy on April 2, 2010, via first Class Mail, postage pre-paid, and addressed as follows:

David G. Oberdick
Meyer, Unkovic & Scott LLP
535 Smithfield Street Suite 1300
Pittsburgh, PA 15222

/s/Allison M. Scott _____
Allison M. Scott
Attorney for Opposer

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing UNOPPOSED MOTION TO SUSPEND PROCEEDING is being filed electronically with the TTAB via ESTTA on this day, April 2, 2010.

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 22313-1451

/s/Allison M. Scott _____
Allison M. Scott
Attorney for Opposer