

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

Mailed: September 10, 2009

Opposition No. 91190998

Hwal'Bay Ba: J Enterprises,
Inc.

v.

Allison Raskansky

Linda Skoro, Interlocutory Attorney

Applicant filed a motion to suspend proceedings in view of a pending arbitration dispute between opposer and a third party on August 18, 2009. Opposer has opposed the motion.

Judicial economy lies in the suspension of Board proceedings because, inter alia, the Board has limited jurisdiction involving the issue of registrability only; the Board decision is advisory to the Court, while the Court decision is binding on the Board; and the Board decision is appealable to the U.S. District Court. See *Goya Foods Inc. v. Tropicana Products, Inc.*, 846 F.2d 848, 6 USPQ2d 1950 (2d Cir. 1988); *E. & J. Gallo Winery v. F. & P. S.p.A.*, 899 F.Supp. 465, 35 USPQ2d 1857 (E.D. Cal. 1994); and *Hanlon Chemical Co., Inc. v. Dymon*, 18 USPQ2d 1652 (D.C. Kan. 1991). See also Sections 17 and 21 of the Trademark Act.

However, a review of the complaint submitted by applicant in support of its motion to suspend is a pleading filed with the American Arbitration Association wherein a third party has brought a contract dispute against opposer. Further, applicant is not a party to the action.

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action that may be dispositive of or have a bearing on the Board case. See Trademark Rule 2.117(a). The American Arbitration Association does not have jurisdiction over federal matters and therefore will not have a bearing on the proceedings before the Board. Should the trademark issues be removed to a federal district court, applicant may refile its request for suspension.

Accordingly, the motion to suspend is denied. Applicant is allowed thirty days within which to file its answer to the notice of opposition. Dates are reset as indicated below.

Time to Answer	October 10, 2009
Deadline for Discovery Conference	November 9, 2009
Discovery Opens	November 9, 2009
Initial Disclosures Due	December 9, 2009
Expert Disclosures Due	April 8, 2010
Discovery Closes	May 8, 2010
Plaintiff's Pretrial Disclosures	June 22, 2010
Plaintiff's 30-day Trial Period Ends	August 6, 2010
Defendant's Pretrial Disclosures	August 21, 2010
Defendant's 30-day Trial Period	October 5, 2010

Ends

Plaintiff's Rebuttal Disclosures
Plaintiff's 15-day Rebuttal Period
Ends

October 20, 2010

November 19, 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.

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