

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

Mailed: September 21, 2011

Opposition No. **91194188**
Opposition No. 91195669
Opposition No. 91195985
Opposition No. 91195986
Opposition No. 91196035
Opposition No. 91196087
Cancellation No. 92053109

Soft Serve, Inc. d/b/a
Sprinkles

v.

Sprinkles Cupcakes, Inc.

Andrew P. Baxley, Interlocutory Attorney:

On August 11, 2011, plaintiff filed a motion for summary judgment in Cancellation No. 92053109 and served that motion upon defendant by mail. See Trademark Rule 2.119(c). On September 1, 2011, defendant filed a consented motion to extend time to file a brief in response to the motion for summary judgment, which the Board granted in a September 8, 2011 order.¹

On September 15, 2011, defendant, instead of filing a brief in response to the motion for summary judgment, timely filed a motion for leave to take discovery under Fed. R. Civ. P. 56(d) prior to filing a brief in response to the

¹ By such order, defendant's brief in response to the motion for summary judgment would have been due by September 29, 2011.

motion for summary judgment. See Trademark Rules 2.119(c) and 2.127(e)(1). On September 19, 2011, defendant filed a request for a telephone conference to confirm that further briefing on the motion for summary judgment is tolled until the Board has decided the motion for Rule 56(d) discovery.

The Board, in exercising its inherent authority to control the scheduling and conduct of cases on its docket, finds that no telephone conference is necessary. Further briefing on the motion for summary judgment is tolled pending the Board's decision on the motion for Rule 56(d) discovery. See Trademark Rule 2.117(c). Remaining briefing in connection with the motion for Rule 56(d) discovery is due in accordance with Trademark Rules 2.119(c) and 2.127(a). Dates for remaining briefing in connection with the motion for summary judgment will be reset in the Board's decision on the motion for Rule 56(d) discovery.

Proceedings herein otherwise remain suspended.