

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

EJW/mc

Mailed: April 12, 2011

Opposition No. 91194292

Larry Marshak

v.

Katherine Schaffner and
Gladys Horton

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

The Board notes opposer's motion (filed February 28, 2011) to suspend this proceeding pending final determination of a civil action between the parties. It is also noted that opposer's motion fails to include a certificate of service showing that a copy of the motion to suspend was served on applicant's counsel of record, as required under Trademark Rule 2.119, 37 C.F.R. § 2.119. Opposer also failed to submit a copy of the complaint in the civil action for the Board's review. See *Forest Laboratories Inc. v. G.D. Searle & Co.*, 52 USPQ2d 1058 (TTAB 1999); and *SCOA Industries Inc. v. Kennedy & Cohen, Inc.*, 188 USPQ 411 (TTAB 1975), *appeal dismissed*, 189 USPQ

Opposition No. 91194292

15 (CCPA 1976). See also TBMP § 510.02(a) (2d ed. rev. 2004) ("the Board normally will require that a copy of the pleadings from the civil action be submitted, so that the Board can ascertain whether the final determination of the civil action will have a bearing on the issues before the Board").

In view thereof, consideration of opposer's motion is **deferred**. Opposer is allowed until **FIFTEEN DAYS** from the mailing date of this order (i) to serve a copy of the motion to suspend on opposing counsel of record and proof of such service with the Board, and (ii) to submit a copy of the complaint in the pending civil action, failing which the motion will not be further considered.

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