

ESTTA Tracking number: **ESTTA371876**

Filing date: **10/06/2010**

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

Proceeding.	91196469
Applicant	Plaintiff Farm Fleet Supplies, Inc.
Other Party	Defendant Blain Supply, Inc.

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Farm Fleet Supplies, Inc. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Farm Fleet Supplies, Inc. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Farm Fleet Supplies, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,
/Eric O. Haugen/
Eric O. Haugen
haugenmail@haugenlaw.com
njohnson@brennansteil.com
10/06/2010

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

FARM FLEET SUPPLIES, INC.,)	
)	
Opposer,)	
)	
vs.)	Opposition No. 91196469
)	Ser. Nos. 77/894710; 77/894766 and 77/894812
BLAIN SUPPLY, INC.)	
)	
Applicant)	
)	

STIPULATION AND MOTION TO SUSPEND PROCEEDING
PURSUANT TO 37 CFR § 2.117

The parties to this Action, Farm Fleet Supplies, Inc. ("Farm Fleet Supplies") and Blain Supply, Inc. ("Blain Supply") hereby stipulate to and move for suspension of proceedings relevant to the instant matter pursuant to 37 CFR § 2.117(a) which states as follows:

Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding with may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.

Presently, Applicant Blain Supply is the Plaintiff in a lawsuit designated *Blain Supply, Inc. v. Running Supply, Inc.*, Case No. 09-cv-746, in the United States District Court for the Western District of Wisconsin ("Blain/Running litigation"). The Blain/Running litigation involves a claim of trademark infringement on the part of Applicant Blain Supply, lodged against Running Supply, Inc. In that case, Blain Supply asserts that Running Supply's use of FARM & FLEET infringes marks owned by Blain Supply that incorporate the words FARM & FLEET. As an affirmative defense, Running Supply asserts that "the phrase 'Farm & Fleet' is merely a descriptive and generic name for the type of goods sold and is not entitled to trademark protection under applicable law".

In the instant Opposition, Farm Fleet Supplies, like Running Supply, asserts that the phrase "Farm & Fleet" is merely a descriptive and generic name for the type of goods sold and is not entitled to trademark protection under applicable law. This issue will be, in all likelihood, fully addressed by the parties to the Blain/Running litigation and the parties to the instant Opposition believe that the findings of the Court in that litigation may well have a bearing on the instant Opposition proceeding. Given this fact, the parties to this Opposition respectfully submit the instant Motion requesting that this Board suspend the instant Opposition until termination of the Blain/Running litigation.

Respectfully Submitted,

Date: October 6, 2010

s/Eric O. Haugen
Eric O. Haugen
HAUGEN LAW FIRM PLLP
121 South Eighth Street
1130 TCF Tower
Minneapolis, MN 55402
(612) 339-8300 – Phone

Attorney for Opposer,
Farm Fleet Supplies, Inc.

Date: October 6, 2010

s/Nancy B. Johnson
Nancy B. Johnson
BRENNAN STEIL S.C.
P.O. Box 1148
Janesville, WI 53547-1148
(608) 756-4141 – Phone

Attorney for Applicant,
Blain Supply, Inc.