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

Proceeding	91196926
Party	Defendant Dorfman-Pacific Co.
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Submission	Motion to Suspend for Civil Action
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GMA ACCESSORIES, INC.,)	
)	
Opposer,)	Opposition No.:91196926
)	
v.)	Application No.: 77/965,616
)	
DORFMAN-PACIFIC CO., INC.)	Mark: CAPPELLI STRAWORLD
)	
Applicant.)	
_____)	

**MEMORANDUM IN SUPPORT OF MOTION TO STAY PENDING
OUTCOME OF DISTRICT COURT PROCEEDINGS**

I. RECITATION OF FACTS

Opposer GMA Accessories (“GMA”) previously moved for summary judgment based on *res judicata*. In an Order dated April 4, 2011, the Board denied GMA’s motion for summary judgment, finding “that there are genuine disputes as to material facts remaining for trial”. Cronen Dec., Exhibit D (TTAB Order Denying Summary Judgment, p. 7). On April 18, 2011, GMA filed a Motion For Reconsideration of the Board’s decision to deny GMA’s Motion For Summary Judgment.

Before the TTAB rendered its decision on GMA’s Motion For Reconsideration, GMA filed a lawsuit in federal court in *GMA Accessories, Inc. v. Dorfman-Pacific Co., Inc.*, Civil Case No. 11-CV- 3731 (RJH)(THK), which is now pending in the United States District Court for the

Southern District of New York. See, Declaration of Michael Cronen In Support Of Motion To Stay, Exhibit A (GMA's First Amended Complaint), and Exhibit B (Dorfman-Pacific's Answer and Counterclaims), filed herewith and incorporated herein.

II. STATEMENT OF THE ISSUE

The Board should stay these proceedings pending the outcome of the district court case filed by Opposer against Applicant in the U.S. District Court For the Southern District of New York.

IV. ARGUMENT

“It is standard procedure for the Trademark Board to stay administrative proceedings pending the outcome of court litigation between the same parties involving related issues.” *McCarthy On Trademarks*, supra, §32:47, p. 32-109. For example, the Trademark Board Manual state that: “[o]rdinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board.” T.B,M.P. Rule 510.02(a).

In the present case, GMA filed substantially the same claims, regarding the same alleged trademarks, in the district court as in the present opposition proceeding. As can be seen from Exhibit A and Exhibit B to the Cronen Declaration submitted herewith, there is no question the district court action filed by GMA is between the same parties and involves the same trademarks and the same issues (as well as additional issues), such that the final determination by the district court will have a bearing on the issues before the Board in this opposition proceeding.

V. CONCLUSION

_____ For the foregoing reasons, the Board should grant the present motion and stay these proceedings pending the outcome in *GMA Accessories, Inc. v. Dorfman-Pacific Co., Inc.*, Civil Case No. 11-CV- 3731 (RJH)(THK), in the United States District Court for the Southern District of New York.

Respectfully submitted,

Dated: September 15, 2011

By: /s/ Michael James Cronen
Michael James Cronen

CERTIFICATE OF SERVICE

Opposition No.:91196926
Application No.: 77/965,616
Mark: CAPPELLI STRAWORLD

I, Michael J. Cronen, hereby certify that this paper [**MEMORANDUM IN SUPPORT OF MOTION TO STAY PENDING OUTCOME OF DISTRICT COURT PROCEEDINGS**] is being deposited with the United States Postal Service on September 15, 2011, postage pre-paid, addressed to the following:

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