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

Proceeding	91197669
Party	Plaintiff TYR Sport, Inc.
Correspondence Address	DONNA RUBELMANN RUBELMANN & ASSOCIATES PC 501 HERONDO STREET, SUITE 45 HERMOSA BEACH, CA 90254 UNITED STATES para@rubelmann.com, cccalcagno@gmail.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	Carla Calcagno
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TYR Sport, Inc.	)	
	)	
Opposer	)	
	)	
v.	)	<b>Opposition Nos. 91197669 and 91197670</b>
	)	
	)	
Marc Dushey.	)	
	)	
Applicant	)	

**TYR SPORT INC.’S MOTION FOR A TWO WEEK SUSPENSION**

TYR Sport Inc. respectfully requests that the TTAB suspend these proceedings for two weeks. As good cause for this motion, last night at approximately 4:30 p.m. eastern, while the undersigned was completing Opposer’s pre-trial disclosures, Donna Rubelmann Esq. received a written settlement offer from an attorney allegedly representing Marc Dushey. (One hour later Ms. Rubelmann received a second email from that same attorney clarifying for Ms. Rubelmann that he was not further representing Mr. Dushey and that she was to communicate solely with Mr. Dushey in the future).

Opposer does NOT seek a thirty day suspension. As indicated in TYR Sport’s opposition to Dushey’s motion to extend discovery, the Board already has delayed this case for over six months due to extensions or suspensions requested by Marc Dushey. If this case is not settled within two weeks, Opposer intends to fully litigate all of its claims against Mr. Dushey.

As indicated in Opposer’s opposition, the record shows that these cases have been extended solely and completely due to Mr. Dushey’s own lack of diligence and delaying tactics.

Discovery has been extended two times, each time with Opposer's consent because of Dushey's stated need for additional time to complete discovery. Once, discovery was extended for three months at the request of Dushey's former counsel. Once, discovery was extended for one month at the request of Dushey himself. The Board then suspended these cases for an additional two months for Dushey to retain new counsel. Yet, during each of these extended periods Dushey did nothing to fulfill his stated need for additional time to complete discovery. Dushey did not take any further discovery, did not produce documents, nor did he seek Opposer's deposition, despite having all of Opposer's discovery responses in hand for over nine months.

Applicant's settlement offer from an attorney unknown to Opposer representing Dushey for apparently one letter on the eve of Opposer's pre-trial disclosures, may yet be another delaying tactic on Dushey's part rather than a bona fide offer intended in good faith to resolve the case. Nonetheless, in an effort to avoid burdening the courts with further litigation, Opposer would like an opportunity to review and respond reasonably to this proposal and endeavor to resolve this case as it has before without having to simultaneously to try the case. But in light of important commercial deadlines, Opposer is not willing to accept more than a two-week delay in its case against Mr. Dushey. These ongoing and repeated delays are prejudicing Opposer. TYR Water's marketing of bottled water under the mark and name TYR, a famous name which consumers will associate exclusively with TYR Sport, is impairing TYR Sport's goodwill, by likely confusing purchasers and diluting and tarnishing Opposer's good name built up at great expense and effort and is in callous disregard of Opposer's rights.

Yesterday, TYR Sport Inc. sent Mr. Dushey two emails requesting Mr. Dushey's consent, to the two-week suspension, but no response is yet forthcoming. TYR Sport Inc. will advise the Board if consent to the motion is received.

Wherefore, Opposer, TYR Sport, respectfully requests that the Board issue an order suspending proceedings for two weeks solely for the purpose of settlement talks, with proceedings to resume without further order from the Board according to the following schedule:

Plaintiff's Pretrial  
Disclosures 5/10/12

Plaintiff's 30-day Trial Period  
Ends 6/24/12

Defendant's Pretrial  
Disclosures 7/9/12

Defendant's 30-day Trial Period  
Ends 8/23/12

Plaintiff's Rebuttal  
Disclosures 9/7/12

Plaintiff's 15-day Rebuttal  
Period Ends 10/7/12

Dated: April 26, 2012

Respectfully submitted,

By: Carla C. Calcagno  
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Attorneys for TYR Sport, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2012, a true and correct copy of the foregoing Opposer's Motion to Suspend was served via U.S. First Class Mail, postage prepaid, upon the following:

Marc Dushey  
1 State Street 21st Floor  
New York, NY 10004

*/Carla Calcagno/*