

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

Mailed: September 15, 2011

Opposition No. 91200639

Vedozi, Inc.

v.

Cintron Beverage Group, LLC

**Robert H. Coggins,
Interlocutory Attorney:**

On August 25, 2011, proceedings were suspended pending disposition of applicant's motion to dismiss, and opposer was ordered to provide the Board with information about a civil action between the parties. Now before the Board are opposer's response to the civil action information request (filed August 29, 2011) and opposer's first amended notice of opposition (filed September 9, 2011).

Suspension for Civil Action

Whenever it comes to the attention of the Board that parties to a case pending before it are involved in a civil action, proceedings before the Board may be suspended until final determination of the civil action. See Trademark Rule 2.117(a); and *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933 (TTAB 1992). Suspension of a Board

case is appropriate even if the civil case may not be dispositive of the Board case, so long as the ruling may have a bearing on the rights of the parties in the Board case. See *Martin Beverage Co. Inc. v. Colita Beverage Company*, 169 USPQ 568, 570 (TTAB 1971).

Inasmuch as the parties to the instant opposition proceeding are also parties to Civil Action No. 2:11-CV-03926-JS in the United States District Court for the Eastern District of Pennsylvania, applicant pleaded ownership of the subject application in the civil action complaint and also pleaded that opposer has no valid basis on which to object to the subject application (see, e.g., paras. 17, 98, 99, and 100 of the civil action complaint), and the issues before the court in the civil action may have a bearing on the rights of the parties in the Board case, proceedings in this Board case are hereby further suspended pending final disposition of the civil action between the parties.

Within twenty days after the final determination of the civil action, including the expiration of all times to appeal, the parties shall so notify the Board so this opposition proceeding may be called up for appropriate action (including resetting applicant's time in which to file a reply brief in support of the outstanding motion to dismiss, if appropriate). During the suspension period, the

Opposition No. 91200639

parties shall notify the Board of any address changes for the parties or their attorneys.

Amended Notice of Opposition

Opposer filed an amended complaint in response to the motion to dismiss. Inasmuch as Fed. R. Civ. P. 15(a) allows for the amended complaint, the first amended notice of opposition is opposer's operative pleading in this case. However, inasmuch as proceedings are further suspended as indicated above, the time for applicant to file a reply brief in support of the motion to dismiss is tolled.

Motion to Dismiss

Inasmuch as proceedings are further suspended herein, determination of the motion to dismiss is deferred. See Trademark Rule 2.117(b). Upon resumption of proceedings, applicant's time in which to file a reply brief in support of the motion to dismiss will be reset, if appropriate.

Possible Consolidation

The Board is aware that the parties are also involved in Opposition No. 91200636. However, inasmuch as issue has not been joined in either case, the Board declines to order consolidation at this time. The Board may reconsider the issue of consolidation at a later time. See TBMP § 511 (3d ed. 2011).