

ESTTA Tracking number: **ESTTA440642**

Filing date: **11/11/2011**

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

Proceeding	91201400
Party	Defendant Signature Travel Network Cooperative, Inc.
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Attachments	STN Reply Brief.pdf (4 pages)(13071 bytes)

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

In the matter of:)	
)	Opposition No. 91201400
)	Serial No. 85/175,893
SIGNATURE FLIGHT SUPPORT UK)	
REGIONS LIMITED)	SIGNATURE TRAVEL NETWORK
)	COOPERATIVE, INC.’S REPLY BRIEF
Opposer)	IN SUPPORT OF ITS MOTION TO
)	WITHDRAW VOLUNTARY
v.)	WITHDRAWAL OF APPLICATION
)	AND REINSTITUTE PROCEEDING
SIGNATURE TRAVEL NETWORK)	
COOPERATIVE, INC.,)	
)	
Applicant)	

REPLY IN SUPPORT OF MOTION TO WITHDRAW VOLUNTARY WITHDRAWAL
OF APPLICATION AND REINSTITUTE PROCEEDING

1. The Federal Circuit Favors Trials on the Merits.

“[T]here is a strong policy favoring a trial on the merits and against depriving a party of his day in court.” *Genentech, Inc. v. U.S. Intern. Trade Com’n*, 122 F.3d 1409, 1423 (Fed.Cir., 1997); *Ingalls Shipbuilding, Inc. v. U.S.*, 857 F.2d 1448, 1451 (Fed. Cir., 1988). The pending Motion asks the Board to let the Opposition proceed so the matter may be decided on its merits.

Opposer’s response asks the Board to disregard the Federal Circuit’s strong policy, claiming it would suffer “substantial prejudice” by being forced to continue the Opposition that Opposer commenced, and allegedly being subjected to “continued risks associated with Applicant’s confusingly similar use of the mark SIGNATURE.” Opposer’s arguments are frivolous.

2. Granting Applicant’s Motion will Not Prejudice Opposer.

Opposer filed the pending Opposition less than 3-months ago. There has been no discovery. There have been no initial disclosures. No responsive pleading has been filed. Most importantly, there has been no judgment. All Opposer has done is file a Notice of Opposition. Moreover, if the Board grants Applicant’s motion, Opposer will be in the same position as when

it initially filed the Notice of Opposition. Opposer will simply be in the position to do what it sought in filing the Opposition -- prosecute the action through a final judgment based on the merits. Opposer's argument claiming prejudice from Applicant's decision to defend the Opposition is preposterous.

Similarly, Opposer's claim of prejudice from "being subjected to the continued risks associated with Applicant's...use of the mark..." is nonsensical. As reflected in the application, Applicant used the "Signature" mark since at least as early as April 2004. It was not until August 30, 2011 (over 7 years after Applicant's initial use of the "Signature" mark) that Opposer first raised an objection. Opposer fails to provide any basis for its claim that it will now (as opposed to any other time over the past 7-years) be prejudiced by Applicant's long continuous use of the "Signature" mark.

Moreover, whether or not Applicant's "Signature" application is pending on the Principal Register has no effect on Applicant's right to continue using the mark, as it has done for over 7 years. Thus, allowing Applicant to withdraw its withdrawal of the "Signature" application does not prejudice Opposer.

Finally, Opposer uses its refusal to consent to Applicant's request to withdraw to claim prejudice. That is, Opposer tries to argue that it suffered prejudice by having to pay its attorneys to respond to Applicant's motion. But Opposer did not have to respond to the motion. Opposer could have (1) consented to the withdrawal without prejudice; or (2) stipulated to Applicant's motion. Either of these actions would have avoided the need to respond to Applicant's motion. Opposer should not be permitted to rely on its willful refusal to consent to the withdrawal to claim prejudice.

3. The Motion Should Be Granted – Applicant Should Have Its Day in Court.

Two competing interests are at issue in Applicant's Motion: (i) the Federal Circuit's strong policy favoring a trial on the merits and against depriving a party of his day in court vs. (ii) Opposer's claim of prejudice from having to prosecute the Opposition that Opposer voluntarily filed and presumably intended to prosecute. There can be no doubt that when, as in this case, there is no real prejudice, the strong policy favoring trials on the merits should prevail.

Accordingly, for the reasons stated above, as well as those discussed in Applicant's

moving papers, the Board should grant Applicant's motion and permit the Opposition to proceed.

DATED: November 11, 2011

LEWITT, HACKMAN, SHAPIRO,
MARSHALL & HARLAN

By: /s/ Tal Grinblat
Attorney for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of Signature Travel Network Cooperative, Inc.'s Reply in Support of Motion to Withdraw Voluntary *Withdrawal of Application* is being served by first class mail, postage prepaid, to:

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DATED: November 11, 2011

/s/ Lisa Whiting
Lisa Whiting