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

Proceeding	91203192
Party	Plaintiff Beats Electronics, LLC
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Submission	Motion to Suspend for Settlement Discussions
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Date	11/24/2014
Attachments	Consent Motion to Suspend 60 day 20411940_1.pdf(14627 bytes)

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

BEATS ELECTRONICS, LLC

Opposer,

v.

MERKURY INNOVATIONS, LLC

Applicant.

Opposition No. 91203192

CONSENTED MOTION TO SUSPEND

Pursuant to Rule 510.03(a) of the Trademark Trial and Appeal Board Manual of Practice and 37 C.F.R. § 2.117(c), Opposer, Beats Electronics, LLC, with the consent of Applicant, Merkury Innovations, LLC., hereby moves the Board for an Order suspending these proceedings for a period of sixty (60) days pending the outcome of settlement negotiations between the parties. In support of this Motion, Opposer states:

1. On December 29, 2011, Opposer filed its Notice of Opposition to Applicant's registration of the mark URBAN BEATZ, and a scheduling order issued.
2. On January 23, 2012, Applicant filed its Answer to the Notice of Opposition together with a counterclaim against Opposer.
3. During the course of these proceedings, Opposer and Applicant have spent considerable time and effort towards completion of discovery. Specifically, Opposer and Applicant have exchanged initial disclosures, first sets of written discovery requests and responses and propounded document production, and have each completed 30(b)(6) depositions.

4. In addition, on February 17, 2014, Opposer served supplemental discovery requests including Requests for Admission, Requests for the Production of Documents and Interrogatory on Applicant, which remain outstanding.

5. Opposer and Applicant likewise exchanged expert disclosures pursuant to the Board's scheduling order. In order to permit time for expert discovery, fact discovery was suspended on March 4, 2014. On May 1, 2014, the suspension for expert discovery was extended by four days, and the parties duly completed expert discovery. Pursuant to the Board's May 1, 2014 Order, the Proceedings were resumed on May 5, 2014 and the discovery period was set to close on June 4, 2014.

6. The Parties efforts described in Paragraphs 3-5 demonstrate Opposer's and Applicant's diligent, ongoing efforts to move these proceedings forward, towards resolution.

7. Throughout the course of the discovery period, the parties intermittently discussed settlement, but these discussions were largely unproductive. On May 20, 2014, counsel for Applicant contacted counsel for Opposer to reinvigorate the settlement discussion, and proposed a potential settlement framework that the parties had not previously considered. In view of the parties' settlement efforts, the parties requested a 60 day suspension to further explore settlement. The request was granted, and pursuant to the Board's June 17, 2014 Order, the proceedings were suspended for 60 days.

8. Throughout the suspension period, the parties were still seriously discussing the new potential settlement framework. Indeed, on July 15, 2014, Applicant sent a revised proposal to Opposer. Accordingly, on July 21, 2014, the parties requested a further 60-day suspension to allow Opposer time to consider the revised offer. The request was granted, and pursuant to the Board's August 7, 2014 Order, the proceedings were suspended for 60 days.

9. During the last suspension period, Opposer Beats Electronics, LLC was acquired by Apple Inc. Opposer has recently rejected Applicant's most recent settlement proposal, and a further suspension is needed to allow Opposer time to prepare an appropriate counterproposal.

10. Efforts to reach a mutually agreeable settlement are ongoing. A suspension of these proceedings will permit the parties to continue their settlement efforts and, hopefully, resolve these proceedings.

11. Counsel for Opposer and counsel for Applicant have conferred and agreed to seek the suspension of this matter to allow the parties to focus their efforts on attempting to resolve this matter, and, therefore, counsel for Applicant has consented to this motion.

WHEREFORE, Opposer respectfully requests that the Board suspend this Opposition for a period of sixty (60) days, pending the outcome of the settlement discussions and reset the deadlines as set forth below or as otherwise appropriate:

Proceedings Resume	January 19, 2015
Discovery Closes	February 5, 2015
Plaintiff's Pretrial Disclosures	March 20, 2015
Plaintiff's 30-day Trial Period Ends	May 4, 2015
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	May 18, 2015
30-day Trial Period for Defendant/Counterclaim Plaintiff Ends	July 3, 2015
Counterclaim Defendants & Plaintiff's Rebuttal Disclosures Due	July 17, 2015
30-day Trial Period for Counterclaim Defendant & Rebuttal as Plaintiff Ends	September 1, 2015
Counterclaim Plaintiff's Rebuttal Disclosures Due	September 15, 2015

15-day Rebuttal Period for Counterclaim Plaintiff Ends	October 15, 2015
Brief for plaintiff due	December 14, 2015
Brief for defendant and plaintiff in the counterclaim due	January 13, 2016
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	February 13, 2015
Reply brief, if any, for plaintiff in the counterclaim due	February 28, 2015

Respectfully submitted,

Date: November 24, 2014

/Katherine Dennis Nye/
One of the Attorneys for Opposer,
Beats Electronics, LLC

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CERTIFICATE OF SERVICE

I, Katherine Dennis Nye, state that I served a copy of the foregoing *Consented Motion To Suspend* via First Class Mail, U.S. postage prepaid, upon counsel for Applicant:

Anthony F. Lo Cicero
Marc J. Jason
Amster, Rothstein & Ebenstein LLP
90 Park Avenue
New York, NY 10016

on this 24th day of November, 2014.

/ Katherine Dennis Nye/
Katherine Dennis Nye

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