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

Proceeding	91203271
Party	Defendant Select Brands, Inc.
Correspondence Address	MICHAEL ELBEIN HOVEY WILLIAMS LLP 10801 MASTIN ST STE 1000 OVERLAND PARK, KS 66210-1697 UNITED STATES
Submission	Opposition/Response to Motion
Filer's Name	Michael Elbein
Filer's e-mail	tmdocketing.elbein@hovewilliams.com, jcrawford@hovewilliams.com
Signature	/Michael Elbein/
Date	01/18/2012
Attachments	Response to Opposer's Motion to Suspend Proceeding.pdf (2 pages)(10354 bytes)

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

In the matter of Trademark Application Serial No.85328936
For the Mark: BABYCAKES
Published in the Official Gazette of November 8, 2011

BABYCAKES NYC, INC.)	
)	
Plaintiff - Opposer)	
)	
vs.)	Opposition Proceeding
)	No. 91203271
SELECT BRANDS, INC.)	
)	
Defendant - Applicant)	

Applicant’s Response to Opposer’s Motion to Suspend Proceeding

Opposer has moved that the above-captioned proceeding be suspended pursuant to 37 CFR §2.117 pending the outcome of Opposer’s *ex parte* appeal of the refusal to approve Opposer’s application to register BABYCAKES NYC and Design due to a prior registration of the mark BABYCAKES Stylized for baking goods.

37 CFR §2.117 and §510.02(a) allow the Board to suspend proceedings pending the final determination of another Board proceeding in which only one of the parties is involved if the final determination of the other proceeding “may have a bearing on the issues before the Board.” While Applicant disagrees with the assertions made by Opposer about the manner in which the outcome of the *ex parte* appeal may affect this proceeding, or the assertions of ownership of any rights in the mark BABYCAKES made in the motion, Applicant agrees that outcome of the *ex parte* appeal “may have a bearing on the issues before the Board” in these proceedings, and therefore does not object to the requested suspension while the *ex parte* appeal is pending.

Wherefore Applicant does not object to suspension of these proceedings pending the Opposer's *ex parte* appeal of the refusal to grant a registration of the BABYCAKES NYC and Design mark, Serial No. 85214746.

Respectfully submitted,

/michael elbein/

Michael Elbein
Matthew B. Walters
HOVEY WILLIAMS LLP
10801 Mastin Boulevard
Suite 1000
Overland Park, Kansas 66210
(913) 647-9050 - Phone
(913) 647-9057 - Fax
Attorneys for Applicant

Certificate of Service

I hereby certify that a true and correct copy of the foregoing, which was filed electronically with the Trademark Trial and Appeal Board, was served upon the attorney for the Opposer this 18th day of January 2012, via U.S. Mail addressed to:

John H. Barkley
Barkley Law Group APC
549 Orange Ave
Coronado, CA 92118

/michael elbein/