

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

BUO

Mailed: February 28, 2013

Opposition No. 91203920

Innova Electronics
Corporation

v.

Equus World, Inc.

David Mermelstein, Administrative Trademark Judge:

The Board's order suspending proceedings in this case is **VACATED**. The parties' stipulated motion, filed August 8, 2012, was inadvertently granted based upon the parties' indication that the parties were concurrently involved in a civil action. However, it has come to the Board's attention that the parties are not involved in a civil action, but instead sought suspension based upon proceedings in two other oppositions currently before the Board-Opposition Nos. 91203901 and 91203905. Those proceedings involve a different opposer than the opposer in this proceeding; two additional grounds for opposition; and a highly similar, but different mark involved in the '901 opposition.

Suspension of a Board proceeding pending the final determination of another proceeding is solely within the

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discretion of the Board. See *Martin Beverage Co. v. Colita Beverage Corp.*, 169 USPQ 568 (TTAB 1971). On occasion, one application is the subject of multiple oppositions, unrelated except insofar as they address the same application. See *Stuart Spector Designs Ltd. v. Fender Musical Instruments Corp.*, 94 USPQ2d 1549 (TTAB 2009); *DataNational Corp. v. BellSouth Corp.*, 18 USPQ2d 1862 (TTAB 1991); *Vaughn Russell Candy Co. v. Cookies in Bloom Inc.*, 47 USPQ2d 1635, 1636 (TTAB 1998). Because the Board and the parties are interested in the prompt disposition of pleaded claims and defenses, separate oppositions against the same application typically proceed simultaneously. Any amendments to the opposed application must be made with the consent of all opposers. Trademark Rule 2.133(a). Likewise, any voluntary abandonment of the application must be made with the written consent of all opposers, or judgment will be entered in favor of each opposer who has not consented to the abandonment. Trademark Rule 2.135.¹

¹ When an application that is the subject of multiple oppositions is voluntarily abandoned, each opposition will necessarily be sustained or dismissed, depending on whether the opposer has consented to the abandonment. In contrast, when the Board sustains one opposition on its merits, either on summary judgment or at final hearing, this will result in abandonment of the application, but the other oppositions will remain pending. In such cases, the Board generally issues an order to each opposer for the remaining oppositions, requiring notice from each such opposer as to whether it wishes to go forward to obtain judgment on the merits, failing which the opposition will be dismissed as moot. Where the Board dismisses one opposition to an application, the entry of judgment for applicant has no bearing on the other pending oppositions, and the opposed application

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In view of this practice, the Board seldom grants a motion to suspend an opposition pending the disposition of other oppositions against the same application unless the motion includes the consent of the other parties. If the Board were to pick one among multiple oppositions to proceed, and to suspend all others, there is potential prejudice to those who did not consent to suspension. See *Prakash Melwani v. Allegiance Corp.*, 97 USPQ2d 1537, 1541 (TTAB 2010); *Gaylord Entm't Co. v. Calvin Gilmore Prods. Inc.*, 59 USPQ2d 1369, 1372 (TTAB 2000). Accordingly, in the absence of consent, a motion to suspend an opposition on the ground that another opposition against the same application may be successful, making the movant's opposition moot, in most cases will be denied. TBMP § 510.02(a) (3d ed. rev. 2012). Inasmuch as there is not consent among all parties to the suspension of this proceeding pending the final disposition of Opposition Nos. 91203901 and 91203905 specifically, the parties' consent motion of August 8, 2012, is **DENIED**.

Additionally, the Board notes a break in the chain of title of involved application Serial No. 77676136. The application was filed in the name of Limex Global Industries Limited on February 23, 2009. On May 28, 2010, a document

will not go forward to issue until a final order has been entered in all pending oppositions.

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reflecting the assignment of application Serial No. 77676136 from Bassam Abdallah to Equus World was recorded with the Assignment Branch at Reel 4215/Frame 0014. However, there is no document in the USPTO records which reflects the assignment of application Serial No. 77676136 from Limex to Abdallah. Although Abdallah was president of Limex when the assignment of application Serial No. 77676136 to Equus World was executed, he and Limex are separate legal entities. Accordingly, the recordation of the assignment of this application to Equus World created a break in the chain of title in the USPTO records.

Notwithstanding the break in the chain of title of application Serial No. 77676136, this proceeding was instituted with Equus World named as the party defendant.²

Applicant is allowed until **THIRTY DAYS** from the mailing date of this order to file with the USPTO's Assignment Branch documentation which corrects the noted deficiency in the chain of title of application Serial No. 77676136, failing which this opposition will be resumed with the caption corrected to identify Limex as the defendant of record, and time for Limex to file an answer will be set. Proceedings are otherwise suspended.

² The USPTO's Trademark Status and Document Retrieval (TSDR) database identifies Equus World as the current owner of application Serial No. 77676136.

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Copies of this order have been sent to the following parties:

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