

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

VW

Mailed: October 16, 2013

Opposition No. 91209194

Puckmaster LLC

v.

5 Continent, Inc.

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

In response to the Board's August 23, 2013 order (which, *inter alia*, suspended briefing on, and any consideration of, applicant's motion for summary judgment), applicant has provided the Board with certain information relating to a civil action and a bankruptcy proceeding.

Suspension for Civil Action

Upon review of the information submitted by applicant, the Board has determined that opposer is a party to the civil action captioned *Crown Bank v. Landmark Community Bank, N.A., et al.*, Court File No. 27-CV-13-2022, in the State of Minnesota District Court, 4th Judicial District. It is the policy of the Board to suspend proceedings when a party to the proceeding is involved in a civil action that

may be dispositive of or have a bearing on the Board case. See Trademark Rule 2.117(a), and TBMP § 510.02(a) (3d ed. rev.2 2013). See also *Argo & Co. v. Carpetsheen Manufacturing, Inc.*, 187 USPQ 336 (TTAB 1975) (state court action between applicant and third party to determine ownership of applicant's mark). 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).

The Board has reviewed the complaint in the Minnesota civil action and has determined that the civil action may have a direct bearing on the rights of the parties to the Board opposition proceeding. Accordingly, proceedings in the Board case remain **suspended** pending final disposition of the civil action.

Within twenty days after the final determination<sup>1</sup> of the civil action, opposer shall so notify the Board so that this case may be called up for appropriate action. During

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<sup>1</sup> A proceeding is considered to have been finally determined when a decision on the merits of the case (i.e., a dispositive ruling that ends litigation on the merits) has been rendered, and no appeal has been filed therefrom, or all appeals filed have been decided. See TBMP § 510.02 (2013).

the suspension period the Board shall be notified of any address changes for the parties or their attorneys.

Summary Judgment Denied

In view of the suspension order herein, applicant's pending motion for summary judgment is **denied without prejudice** and is therefore moot. If applicant believes that its previously outstanding motion, which was pending at the time of this order and denied hereby, has not been resolved or made moot by the civil action, applicant may renew the motion in its notification of the final determination of the civil action by citing the motion's title, date of filing, and docket entry number in the Board's electronic proceeding file (i.e., TTABVUE). Any renewed motion must be accompanied by a signed statement that the motion has been contemporaneously reviewed in its entirety and concerns matters still disputed between the parties.

Extension Moot

In view of the suspension ordered herein, the parties' stipulated motion (filed October 11, 2013, by applicant) is **moot**. It is noted that the filing fails to indicate proof of service of a copy of same upon opposer as required by Trademark Rule 2.119. Applicant is reminded that every paper - even stipulated motions - filed with the Board must

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be served upon the other party and must include proof of such service. Strict compliance with Trademark Rule 2.119 is required in all future papers filed with the Board.