

ESTTA Tracking number: **ESTTA765150**

Filing date: **08/17/2016**

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

Proceeding	91212028
Party	Plaintiff Duke University
Correspondence Address	REBECCA E CRANDALL OLIVE & OLIVE 500 MEMORIAL ST DURHAM, NC 27701 UNITED STATES emailboxTTAB@oliveandolive.com, solive@oliveandolive.com, shernandez@oliveandolive.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	Susan Freya Olive
Filer's e-mail	emailboxTTAB@oliveandolive.com, jcortina@oliveandolive.com
Signature	/ Susan Freya Olive/
Date	08/17/2016
Attachments	20160817 ConsentMot-Suspend.pdf(118690 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**Before the Trademark Trial and Appeal Board**  
Opposition No. 91212028

DUKE UNIVERSITY, Plaintiff-Opposer  vs  Montgomery Youth Hockey Association, Inc., Defendant-Applicant	<b>MOTION TO SUSPEND PROCEEDINGS</b>
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Attorney Docket No.: DUKU9257

Duke University moves that this proceeding be suspended for 75 days, i.e. to October 31, 2016, to allow the parties to conclude settlement negotiations.

Duke University takes note of the Board's Order granting the last motion to suspend, and the instructions provided therein. More specifically, counsel for Duke University has noted the Board's comment that the parties are expected to provide a detailed progress report, including an explanation of any remaining outstanding issues, in order to establish good cause for any future suspension or extension. Accordingly, the following is a detailed progress report:

1. After continuing their discussions, counsel have circulated what counsel for both parties believe is a final draft of the agreement.
2. The agreement resolves all issues and no issues are believed to be still outstanding.
3. If all proceeds as counsel for both parties expect, only two steps remain prior to dismissal of the pending proceeding: consideration and approval of the agreement, in its current form, at the next regular Board meeting of one of the parties, scheduled to occur in mid-September; and obtaining the signature of both parties.
4. While neither counsel believes that any terms will need revision, nonetheless it is believed prudent to allow six weeks for finalization and execution of the agreement

following the Board meeting.

It is respectfully submitted that the foregoing constitutes sufficient explanation to fully justify the requested suspension; that it would be a waste of judicial resources and of the time and resources of the parties to actively continue pursuit of this proceeding at this point; and that suspension through and including October 31, 2016, should be granted in order to allow final approval and execution of the agreement and dismissal of the pending proceeding.

Counsel for Duke also notes that although Duke has identified its witnesses, including expert witnesses, to Defendant and worked to schedule its trial testimony, it has not been possible to schedule the trial deposition of Duke's witnesses at a time when counsel for Defendant and his clients are available, since the trial period extends through vacation periods and the commencement of school activities in which those persons are involved. Counsel for Defendant has requested that the taking of Duke's testimony be postponed until he can be available. If for any reason this motion to suspend is not granted, it is respectfully requested that Duke's trial date be re-set to provide at least a thirty (30) day extension in order to allow for scheduling that permits attendance of opposing counsel.

WHEREFORE, , Duke University with the consent of Applicant requestfully moves that proceedings herein be suspended for 75 days to allow the parties to conclude their settlement, and that the dates reset as follows:

<b>Time to Answer:</b>	CLOSED
<b>Deadline for Discovery Conference:</b>	CLOSED
<b>Discovery Opens:</b>	CLOSED
<b>Initial Disclosures Due:</b>	CLOSED
<b>Expert Disclosure Due:</b>	CLOSED
<b>Discovery Closes:</b>	CLOSED
<b>Plaintiff's Pretrial Disclosures:</b>	CLOSED

<b>Plaintiff's 30-day Trial Period Ends:</b>	11/21/2016
<b>Defendant's Pretrial Disclosures:</b>	12/06/2016
<b>Defendant's 30-day Trial Period Ends:</b>	01/20/2017
<b>Plaintiff's Rebuttal Disclosures:</b>	02/04/2017
<b>Plaintiff's 15-day Rebuttal Period Ends:</b>	03/06/2017

If for any reason the motion is not approved, it is respectfully requested that the outstanding dates be extended by thirty (30) days to permit Duke's testimony to be taken at a time when counsel for Defendant can be present.

This 17<sup>th</sup> day of August, 2016.

**OLIVE & OLIVE, P.A.**  
Attorneys for Opposer  
*/Susan Freya Olive/*  
Susan Freya Olive  
NC State Bar No. 7252  
P. O. Box 2049  
Durham, North Carolina 27702  
Telephone: (919) 683-5514  
Email: [emailboxTTAB@oliveandolive.com](mailto:emailboxTTAB@oliveandolive.com)

## CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this Motion has been served upon Applicant's counsel by email (by agreement) at the following address:

[Ray@mckenzie-legal.com](mailto:Ray@mckenzie-legal.com)

on this 17<sup>th</sup> day of August, 2016.

*A. Jose Cortina*

A. Jose Cortina  
Olive & Olive, P.A.  
Attorneys for Opposer

P. O. Box 2049  
Durham, North Carolina 27702  
Telephone: (919) 683-5514  
Email: [emailboxTTAB@oliveandolive.com](mailto:emailboxTTAB@oliveandolive.com)