

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

MC

Mailed: January 7, 2016

Opposition No. 91215896

Bells Brewery, Inc.

v.

Innovation Brewing

Elizabeth A. Dunn, Attorney (571-272-4267):

This case comes up on Opposer's motion, filed October 5, 2015, to suspend this proceeding for a period of thirty days following the Director's disposition of Opposer's petition to review the Board's September 5, 2015 order with respect to one of the motions addressed therein. The motion is contested.¹

On September 5, 2015, the Board issued an order which denied Opposer's motions to amend the notice of opposition and to compel a supplemental deposition and supplemental responses to written discovery, and reset trial dates, with Opposer's pretrial disclosures due October 18, 2015. On October 5, 2015, Opposer filed a petition to the USPTO Director for review of the order with respect to the motion to amend the notice of opposition, and also filed the motion to suspend. In

¹ The Board regrets the delay in addressing the motion. On October 7, 2016, the Board issued an interim order suspending proceedings pending the disposition of this motion, and the Board then inadvertently moved the case from the contested motion docket to the suspension docket, where it recently was discovered.

support of suspension Opposer contends that, in the event its petition was granted, dates would need to be reset for the submission of disclosures and evidence related to the new claim, and so judicial efficiency would be aided by suspension. Applicant filed an opposition to suspension which contended that, in the event the petition was not granted, Applicant would have been put to unnecessary delay of the Board's disposition of this case.

Pursuant to Trademark Rule 2.146(g), "The mere filing of a petition to the Director will not act as a stay in any appeal or *inter partes* proceeding that is pending before the Trademark Trial and Appeal Board ... except when a stay is specifically requested and is granted...." Pursuant to Trademark Rule 2.117(c), the Board may suspend proceedings for good cause. It has been long recognized that suspension of a Board proceeding is solely within the discretion of the Board. *The Other Telephone Company v. Connecticut National Telephone Company, Inc.*, 181 USPQ 779, 782 (Comm'r Pat. 1974). "The power to stay proceedings flows from the power inherent in the court to schedule disposition of the cases on its docket with the goal of promoting fair and efficient adjudication. *Opticians Ass'n of America v. Independent Opticians of America Inc.*, 734 F. Supp. 1171, 14 USPQ2d 2021, 2029 (D.N.J. 1990) (the court holding that it lacks the power to stay TTAB proceedings), *rev'd on other grounds*, 920 F.2d 187, 17 USPQ2d 1117 (3d Cir. 1990).

Here, the Board agrees that judicial efficiency is promoted by suspending proceedings until it is determined which claims will be tried, and that Opposer is entitled to a reasonable period following the resumption of proceedings in which to

prepare its case. The Board notes that that Opposer's position was denied on January 4, 2016. Accordingly, for good cause demonstrated therein, Opposer's motion to suspend proceedings for a period of thirty days following the Director's disposition of Opposer's petition is GRANTED to the extent that proceedings are considered to have been suspended with Opposer's filing of the motion, are now resumed, and dates are reset below.

Plaintiff's Pretrial Disclosures	2/5/2016
Plaintiff's 30-day Trial Period Ends	3/21/2016
Defendant's Pretrial Disclosures	4/5/2016
Defendant's 30-day Trial Period Ends	5/20/2016
Plaintiff's Rebuttal Disclosures	6/4/2016
Plaintiff's 15-day Rebuttal Period Ends	7/4/2016

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.