

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

WINTER

Mailed: December 18, 2015

Opposition No. 91216077

RevenueWire, Inc.

v.

Future Payment Technologies, L.P.

BY THE TRADEMARK TRIAL AND APPEAL BOARD:

This case now comes up for consideration of Applicant's contested motion (filed November 30, 2015) to suspend this proceeding pending the resolution of the parties' civil action pending in the United States District Court for the Northern District of Illinois, Eastern Division, Case No.1:15-cv-06552.¹ Attached to Applicant's motion is a copy of the amended complaint in the civil action.

For purposes of this order, the Board presumes the parties' familiarity with the pleadings, and the arguments and materials submitted in connection with the subject motion.

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action that may be dispositive of or have a bearing on the Board

¹ In accordance with the Board's authority to manage its own docket, the Board exercises its discretion to consider Applicant's motion prior to the reply brief due date in view of Applicant's submission on December 17, 2015, of an uncontested motion to extend its time to submit a response to Opposer's summary judgment motion.

case. *See New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011) (the Board will scrutinize the pleadings in the civil action to determine if the issues before the court may have a bearing on the Board's decision in the opposition); *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933 (TTAB 1992); and Trademark Rules 2.127(a) and 2.117(a), 37 C.F.R. §§ 2.127(a) and 2.117(a). *See also* TBMP § 510.02 (2015). Additionally, the Board will suspend or maintain the suspension of a proceeding until the civil action at issue is considered to have been finally determined, that is, when a decision on the merits of the case has been rendered, and no appeal has been filed in regard thereto, or all appeals filed have been decided. *See* TBMP § 510.02(b).

The Board is not persuaded by Opposer that the civil action has no bearing on this proceeding. Although the civil action also involves additional claims, e.g., trademark infringement and dilution, both the opposition and the civil action will address the issue of whether there is a likelihood of confusion between the parties' marks (see complaint ¶ 17 and notice of opposition ¶¶ 8, 11). In view thereof, the Board finds that the civil action between the parties may have a bearing on this proceeding. Accordingly, Applicant's motion to suspend pending the outcome of the civil action is **granted**. Trademark Rule 2.117(a).

Accordingly, this proceeding is **SUSPENDED** pending final disposition of the civil action between the parties.

Within twenty days after the final determination of the civil action, the parties shall so notify the Board and call this case up for any appropriate action. During the

suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.

Opposer's Motion for Summary Judgment

Inasmuch as Applicant's motion to suspend has been granted, Opposer's motion for summary judgment will not be considered and is **dismissed without prejudice**.²

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² *If applicable*, Opposer may refile its motion for summary judgment upon resumption of these proceedings. Additionally, in view of the Board's decision herein, Applicant's unconsented motion (filed December 17, 2015) to extend time to file its response to Opposer's motion for summary judgment is moot.