

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

MT

Mailed: April 13, 2016

Opposition No. 91218363

New Wave Innovations, Inc.

v.

Mr. Foamer, Inc.

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

Proceedings are suspended pending disposition of Applicant's motion for summary judgment and motion "to use papers and testimony from another proceeding" (both filed April 7, 2016). Any paper filed during the pendency of these motions which is not relevant thereto will be given no consideration. *See* Trademark Rule 2.127(d).

To the extent Applicant alleges that the Board failed to rule on Opposer's motion filed December 10, 2015, Applicant is referred to the Board's December 19, 2015 order which states¹:

Inasmuch as the amended notice of opposition does not include a claim of judicial estoppel, no consideration will be given to Opposer's motion for summary judgment on the unpleaded claim.

The motion for summary judgment will be decided in due course.

¹ "If, on a motion for judgment on the pleadings, matters outside the pleading are submitted and not excluded by the Board, the motion will be treated as a motion for summary judgment under Fed. R. Civ. P. 56." Trademark Trial and Appeal Board Manual of Procedure (TBMP) §504.03 (October 2015).