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

Proceeding	91223243
Party	Defendant Bella Collina Events LLC
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DCS INVESTMENT HOLDINGS, LLC,)
)
Opposer,)
)
v.)
)
BELLA COLLINA EVENTS LLC,)
)
Applicant.)
_____)

Opposition No. 91223243
Serial No. 86362378

**REPLY IN SUPPORT OF
MOTION TO SUSPEND**

Applicant Bella Collina Events, LLC (“BCE”), through its undersigned counsel, hereby files this Reply in Support of Motion to Suspend Proceedings Pending Outcome of Civil Action pursuant to Trademark Rules 2.117(a), 2.127(a) and T.B.M.P. § 510.02(a).

ARGUMENT

Opposer DCS Investment Holdings, LLC (“Opposer”) opposes the Motion to Suspend claiming there are “substantial differences” between this Board proceeding and the pending federal civil litigation. However, that is not the standard for Applicant’s Motion to Suspend. Trademark Rule 2.117(a) provides the Board may suspend a proceeding if “a party or parties to a pending case are engaged in a civil action . . . which may have a bearing on the case.” 37 C.F.R. § 2.117(a) (emphasis added). The test for suspension is whether the civil action has a bearing upon the Board proceeding. The civil action may, in some cases, be dispositive, although the civil action’s decisions need not be dispositive for this Board to suspend proceedings. *See, e.g., New Orleans La. Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011). “Unless there are unusual circumstances, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board.” T.B.M.P. § 510.02(a).

Opposer does not disagree that there are a number of issues common to both proceedings, and which will have a bearing on this proceeding:

- The ownership and rights in the BELLA COLLINA mark and Registration Number 2,936,715
- The common law rights in BELLA COLLINA for wedding-related services
- Priority and likelihood of confusion surrounding the use of BELLA COLLINA in connection with wedding-related services
- The exclusivity of the right to use the service mark BELLA COLLINA in connection with the marketing and sale of wedding-related services
- Whether BCE has properly attempted to register the mark under the application (Serial No. 86362378) at issue in this Opposition

The existence of these issues amply demonstrates that the federal civil litigation will have a bearing upon the Board proceeding, and may in fact be dispositive.

Despite Opposer's assertion to the contrary, fraud is also an issue in the pending federal civil litigation. DCS Real Estate Investments, LLC ("DCS Real Estate"), the defendant and counterclaim-plaintiff in the civil litigation, asserted fraud as an affirmative defense in its Answer. See Motion to Suspend, Exhibit C, Answer p. 11, ¶ B ("B. ... The plaintiff [BCE] has ... infringed DCS's famous BELLA COLLINA mark, and has ... committed fraud on the United States Patent and Trademark Office.")

Based on the numerous issue in common, and the fact that the federal court's disposition may be dispositive of this Board proceeding, this Opposition should be suspended until the Civil Action is disposed of. *See, e.g., Arcadia Grp. Brands Ltd. v. Studio Moderna SA*, 99 USPQ2d 1134, 1136 (TTAB 2011) (noting that it is a "policy of the Board to suspend proceedings when

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion to Suspend Proceedings has been served on the following by mailing said copy on October 6, 2015, via First Class Mail, postage prepaid:

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/s/ Kimberly M. Marston
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