

ESTTA Tracking number: **ESTTA740853**

Filing date: **04/19/2016**

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

Proceeding.	91227078
Applicant	Plaintiff Vista Outdoor Operations LLC, Bushnell Holdings, Inc.
Other Party	Defendant Leapers, Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Vista Outdoor Operations LLC, Bushnell Holdings, Inc. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Vista Outdoor Operations LLC, Bushnell Holdings, Inc. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Vista Outdoor Operations LLC, Bushnell Holdings, Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,

/Timothy D. Sitzmann/

Timothy D. Sitzmann

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04/19/2016

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

In the matter of Application Serial No.: 86/251,178
Filed: April 14, 2014
Published in the Trademark Official Gazette on December 1, 2015

Vista Outdoor Operations LLC,
Bushnell Holdings, Inc.

Opposers,

v.

Opposition No. 91227078

Leapers, Inc.,

Applicant.

**OPPOSERS' MOTION TO SUSPEND THE PROCEEDINGS
WITH APPLICANT'S CONSENT**

Pursuant to 37 C.F.R. § 2.117(a), Vista Outdoor Operations LLC and Bushnell Holdings, Inc. (“Opposers”) hereby move to suspend the above-captioned Opposition proceeding with the consent of Leapers, Inc. (“Applicant”).

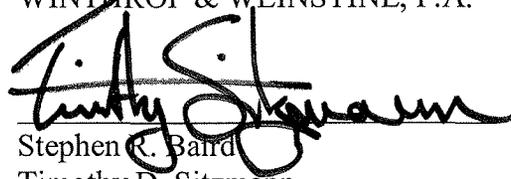
Applicant is the plaintiff and counterclaim defendant in a pending civil action, namely, Civil Action No. 2:14-12290 in the United States District Court for the Eastern District of Michigan (the “Pending Action”). The Pending Action involves a claim of trade dress infringement brought by Applicant against multiple third-party defendants, none of which include Opposers.

The defendants in the Pending Action filed a Motion for Summary Judgment. On March 25, 2016, the Hon. Judge Robert H. Cleland issued an order granting the Defendants’ Motion for Summary Judgment finding that Applicant’s claimed trade dress is functional as a matter of law. On April 7, 2016, Applicant filed a Motion for Reconsideration of the March 25, 2016 order. If the Motion for Reconsideration is denied, Leapers has expressed its intention to appeal to the Sixth Circuit.

The outcome of the Pending Action may have a bearing on the above-captioned proceeding and therefore Opposers, with the consent of Applicant, hereby request suspension of Opposition No. 91227078 pending the outcome of the Pending Action pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a).

Respectfully Submitted,

WINTHROP & WEINSTINE, P.A.



Handwritten signature of Timothy D. Sitzmann in black ink, written over a horizontal line.

Stephen R. Baird
Timothy D. Sitzmann

Date: April 19, 2016

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*Attorneys for Opposers
Vista Outdoor Operations LLC
Bushnell Holdings, Inc.*

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Vista Outdoor Operations LLC and
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Opposition No. 91227078

Leapers, Inc.

Applicant.

CERTIFICATE OF SERVICE BY E-MAIL

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Timothy D. Sitzmann, of the City of Minneapolis, County of Hennepin, in the State of Minnesota, says that on the 19th day of April, 2016, he served via e-mail, as agreed upon by the parties, a true and correct copy of Opposers' Motion to Suspend with Consent in the in the above-captioned action to the attorney of record for Applicant, to-wit:

Brian Wassom
Honigman Miller Schwartz and Cohn LLP
39400 Woodward Ave.
Bloomfield Hills, MI 48304
bw@honigman.com



Timothy D. Sitzmann