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

Proceeding	92048699
Party	Plaintiff Lester H.Schweiss
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Submission	Motion to Suspend for Civil Action
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Date	11/13/2009
Attachments	Second Motion to Suspend.pdf ( 3 pages )(83266 bytes )

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

**Lester H. Schweiss (a/k/a Chip Schweiss)** )  
Petitioner, )  
 )  
v. ) Cancellation No.: 92048699  
 )  
**Family Watchdog, LLC** )  
Registrant. )  
 )  
\_\_\_\_\_ )

**PETITIONER’S RESPONSE TO BOARD’S INQUIRY AND MOTION  
TO SUSPEND PENDING OUTCOME OF CIVIL ACTION**

Pursuant to 37 C.F.R. 2.117 and TBMP § 510.02, Petitioner Lester H. Schweiss (“Schweiss”) hereby requests that the Board continue to suspend this Cancellation proceeding for the reasons set forth below. Schweiss strongly believes a suspension is appropriate because the outcome of the civil action will have a direct bearing on this Cancellation proceeding since they both involve the same marks and many of the same issues.

1. On May 16, 2008, Registrant Family Watchdog, LLC (“Family Watchdog”) filed a civil action against Schweiss in the United States District Court for the Southern District of Indiana. The Case Number is 1:08-CV-0642-SEB-JMS.
2. On February 5, 2009, the District Court for the Southern District of Indiana dismissed Family Watchdog’s civil action due to a lack of personal jurisdiction over Schweiss.

3. On February 13, 2009, Family Watchdog filed a civil action against Schweiss in the United States District Court for the Middle District of Florida. The Case Number is 6:09-CV-296-Orl-18GJK. This civil action was also dismissed due to a lack of personal jurisdiction over Schweiss.

4. On July 27, 2009, Schweiss filed a Complaint for Declaratory Judgment against Family Watchdog in the United States District Court for the Eastern District of Missouri. The Case Number is 4:09-CV-1175. The Complaint was recently served upon Family Watchdog on October 21, 2009.

5. In Schweiss' Complaint for Declaratory Judgment, Schweiss requests that the court enter its judgment declaring that Schweiss' has priority in the FAMILY WATCHDOG trademark and that his use of the FAMILY WATCHDOG trademark does not violate the Lanham Act or any of the intellectual property rights of Family Watchdog.

In view of the above, and in the interest of preventing duplicative litigation, Schweiss respectfully requests that the Board grant his Motion to Suspend pending the disposition of Civil Action No. 4:09-CV-1175 filed in the United States District Court for the Eastern District of Missouri.

Respectfully submitted,

LESTER H. SCHWEISS

By:                     /aph72/                    

Dated:     11/13/2009    

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing **PETITIONER'S RESPONSE TO BOARD'S INQUIRY AND MOTION TO SUSPEND PENDING OUTCOME OF CIVIL ACTION** has been served by mailing said copy on 11/13/2009 via First-Class Mail, postage prepaid, to:

Paul E. McJunkin, CFO  
Family Watchdog, LLC  
1950 E. Greyhound Pass, Suite 18-352  
Carmel, Indiana 46033-7787

                    /aph72/                      
Annette P. Heller, Attorney for Petitioner