

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

wbc

Mailed: April 13, 2013

Cancellation No. 92048732

Altvater Gessler - J.A.
Baczewski International (USA)
Inc. and Altvater Gessler -
J.A. Baczewski GmbH

v.

Ronald Beckenfeld

Andrew P. Baxley, Interlocutory Attorney:

On March 18, 2013, respondent filed a motion for summary judgment and a separate motion to suspend this proceeding pending the Board's decision on the motion for summary judgment. The motion to suspend has been fully briefed.

Respondent seeks suspension of the proceedings pending disposition of its motion for summary judgment. In response, petitioner contends that the motion to suspend is "a calculated attempt to avoid or, at the very least, delay discovery in this proceeding."

When a party to a Board proceeding files a motion which is potentially dispositive of the proceeding, such as a motion for summary judgment, the Board will suspend that

proceeding with respect to all matters not germane to the motion.¹ See Trademark Rule 2.127(d); *Pegasus Petroleum Corp. v. Mobil Oil Corp.*, 227 USPQ 1040, 1044 n.7 (TTAB 1985); TBMP Section 510.03(a) (3d ed. rev. 2012). Because the parties are presumed to know that the filing of a potentially dispositive motion will result in the Board's issuance of a suspension order, the filing of such a motion generally will provide parties with good cause to cease or defer activities unrelated to the briefing of such motion, such as responding to discovery requests. See *Leeds Technologies Ltd. V. Topaz Communications Ltd.*, 65 USPQ2d 1303, 1305-06 (TTAB 2002); TBMP Section 510.03(a) (3d ed. rev. 2012).

In view thereof, the motion to suspend is hereby granted.² Proceedings herein are suspended pending disposition of respondent's motion for summary judgment.³ See Trademark Rule 2.127(d). Any paper filed during the pendency

¹ Petitioner's reliance upon Trademark Rule 2.117(c) is inappropriate.

² If petitioner believes that it cannot adequately respond to the motion for discovery without first obtaining discovery from respondent, it's remedy is to timely file a motion for discovery under Fed. R. Civ. P. 56(d). See TBMP Section 528.06.

³ Petitioner's brief in response to the motion for summary judgment is due in accordance with Trademark Rules 2.119(c) and 2.127(e)(1). Petitioner's time in which to file a motion for discovery under Fed. R. Civ. P. 56(d) will not be extended. See Trademark Rule 2.127(e)(1).

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of this motion which is not relevant thereto will be given no consideration.