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Filing date: **05/24/2012**

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

Proceeding	92051465
Party	Defendant Edge Games, Inc., and Future Publishing, Ltd.
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Attachments	92051465_Motion to Suspend.pdf ( 3 pages )(36030 bytes )



## **MOTION TO SUSPEND PROCEEDINGS**

NOW COMES Co-Defendant/Co-Registrant, EDGE Games Inc. (“Edge Games”), and moves through this motion that the instant cancellations proceedings be suspended pending the outcome of the “Motion to Confirm Judgment and Order as Void” filed in Federal Court in the proceedings brought against Petitioner Electronic Arts, Inc (“EA”) by Edge Games.

### **FACTS**

As Edge Games notified the Board in its filing dated May 17, 2012 (Docket# 74), Edge Games has filed a motion with the District Court under FRCP 60(b)(4) to have the Civil Court confirm the Judgment and Final Order referenced in this matter deemed void. Edge Games filing of said motion is valid since a party in Pro Se may file a motion. Edge Games must be represented by counsel at any *hearing* of the motion, though, and of course Edge Games will have such representation.

### **ARGUMENT**

It is the policy of the Board to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case (*see* Trademark Rule 2.117(a)). Consequently, Registrant requests that the instant cancellation proceedings be suspended pending the final disposition of the motion filed in the civil court in regard to the civil action between Edge Games and EA.

While the Board asked that Edge Games filed the motion in question within 20 days of its March 30, 2012 decision, that short timing proved to be unreasonable and impossible for Edge Games to perform to. Edge Games pursued the possibility of gaining further relief from the District Court Order with all possible speed, and was only just able

to discern in the past week what motion might be filed, and where it might be filed (before the District Court or the Court of Appeal). Consequently, since the outcome of this motion will be dispositive of the instant proceedings, Edge Games asks that the Board not hold it to the 20 day deadline that was indicated, and that the Board accept the motion filed as it was – as swiftly as Edge Games could do so under the circumstances – as acceptable. And that the Board do now suspend the proceedings pending the outcome of the motion.

Clearly, the outcome of the new court motion is key to these proceedings: the sole reason the Board is considering cancellation of the registrations in question is because the Board feels it must act on the Court's Order. Yet, clearly, if Edge Game's new motion prevails – as all Supreme Court decisions on the issue of void orders state it must – then the Court's Order will be void and the Board should not act on it and should never have acted on it. As Edge Games previously informed the Board (Docket #74), it will supply a conformed copy of the filed motion as soon as the District Court provides same to Edge Games. Since Edge Games has no access to the electronic PACER system, was restricted to filing via mail and to receiving confirmation of filing via mail, too.

Date: May 24, 2012

Respectfully submitted,

By: 

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