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

Proceeding	92054069
Party	Defendant Skydive Arizona, Inc.
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Date	07/22/2011
Attachments	2011 0722 Hogue v Skydive -- Stipulation re Rule 12 Motion.pdf (2 pages) (10832 bytes)

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

In the matter of Registration No. 3,099,847 (Application Serial No. 76/641,146)

MARK: **SKYDIVE ARIZONA**

Registered on the Principal Register on June 6, 2006

Marc Hogue, <p style="text-align:right">Petitioner,</p> <p style="text-align:center">vs.</p> Skydive Arizona, Inc., <p style="text-align:right">Respondent.</p>	Cancellation No.: 92/054,069 STIPULATION TO TREAT SKYDIVE ARIZONA'S RULE 12 MOTION AS A MOTION FOR SUMMARY JUDGMENT
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Petitioner Marc Hogue and Respondent Skydive Arizona, Inc. stipulate and agree that Respondent's Rule 12 Motion (Dkt. #5) should be treated as a motion for summary judgment, and that Petitioner Hogue should be allowed an appropriate amount of time to respond to the motion. Respondent's Rule 12(b)(6) motion may be treated as a motion for summary judgment pursuant to Fed. R. Civ. P. 12(d) and 37 C.F.R. § 2.127(e)(1), and this approach appears to be appropriate because the motion asserts claim and issue preclusion. *See Zoba Int'l Corp. v. DVD Format/LOGO Licensing Corp.*, 98 U.S.P.Q.2d 1106 (T.T.A.B. 2011). Accordingly, subject to the Board's approval, the parties stipulate that Marc Hogue's deadline to respond to the motion shall be August 16, 2011, and Skydive Arizona's deadline to file a reply shall be September 6, 2011.

Respectfully submitted, this 22nd day of July, 2011:

JENNINGS, STROUSS & SALMON, PLC

SNELL & WILMER L.L.P.

By /Jimmie Pursell/
Jimmie Pursell
Attorneys for Petitioner
Marc Hogue

By /Sid Leach/
Sid Leach
Attorneys for Respondent
Skydive Arizona, Inc.

Certificate of Service

I hereby certify that on this 22nd day of July, 2011, I caused a copy of the foregoing STIPULATION TO TREAT SKYDIVE ARIZONA'S RULE 12 MOTION AS A MOTION FOR SUMMARY JUDGMENT to be served by mailing a copy via the United States Post Office, postage prepaid, in an envelope addressed to:

Jimmie Pursell
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One East Washington Street, Suite 1900
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By: /David G. Barker/
David G. Barker