

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

Mailed: April 12, 2012

Cancellation No. 92055403

Barry Biondo dba Topsy Spa
and Salon

v.

Thanh Nguyen

**George C. Pologeorgis,
Interlocutory Attorney:**

On April 12, 2012, respondent filed a motion to suspend this proceeding pending final determination of a civil action between the parties in the United States District Court for the Southern District of Florida.¹ Respondent included a copy the civil action complaint with his motion.

Respondent's motion for suspension of this Board proceeding is granted as well taken. 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

¹Case No. 9:11:CV-81156, styled *Thanh Nguyen and Luong Nguyen v. Barry Biondo and Topsy Spa and Salon, Inc.*, filed on or about February 17, 2012.

have a bearing on the Board case.² See Trademark Rule 2.117(a).

A review of the complaint in the civil case indicates that a decision by the district court could be dispositive of, or have a bearing on, the issues in this cancellation proceeding.

Accordingly, proceedings herein are suspended pending final disposition of the civil action between the parties.

Within twenty days after the final determination of the civil action, the interested party should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the parties or their attorneys.

² Moreover, to the extent that a civil action in a Federal district court involves issues in common with those in a Board proceeding, the district court decision would be binding on the Board, whereas the Board decision is merely advisory to the district court. See *American Bakeries Co. v. Pan-O-Gold Baking Co.*, 2 USPQ2d 1208 (D.C. Minn. 1986). Further, Board decisions are appealable to the district court. See Section 21 of the Trademark Act, and *Goya Foods, Inc. v. Tropicana Products Inc.*, 846 F.2d 848, 6 USPQ2d 1950, at 1953 (2d Cir. 1988).