

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

BUO

Mailed: October 9, 2013

Opposition No. 92057366

1047406 Ontario Ltd. and  
Purifics ES, Inc.

v.

UVCleaning Systems, Inc.

**Benjamin U. Okeke, Interlocutory Attorney:**

Now before the Board is respondent's motion, filed September 4, 2013, to suspend the proceeding pending final determination of another Board proceeding, Opposition No. 91194706, between the parties. Applicant asserts that a decision in the opposition proceeding would "moot" the instant proceeding. Applicant also asserts that a stay of this proceeding would conserve the resources of the Board and the parties, that a stay does not pose any prejudice to petitioner, and that the Board's rules provide for a stay in this context. Petitioner contests this motion, averring that the delay to this proceeding that would result from a stay would be excessive, that petitioner would be prejudiced by respondent's continued use of subject mark

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during the stay, and that respondent has inconsistently treated the proceedings as both unrelated and parallel to suits its needs during these proceedings.

The Board has considered the parties' submissions and presumes the parties' familiarity with the factual bases for the motion, and will not recount the facts or arguments here, except as necessary to explain the decision.

It is the policy of the Board to suspend a proceeding whenever it comes to the attention of the Board that a party or parties to a case pending before it are involved in a civil action or another Board proceeding which may have a bearing on the instant case. See Trademark Rule 2.117(a); *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933 (TTAB 1992). Suspension of a Board proceeding pending the final determination of another proceeding is solely within the discretion of the Board. See *Opticians Ass'n of Am. v. Independent Opticians of Am. Inc.*, 734 F. Supp. 1171, 14 USPQ2d 2021 (D.N.J. 1990).

The Board may, in its discretion, suspend a proceeding pending the final determination of another Board proceeding in which the parties are involved. Cf. *The Tamarkin Co. v. Seaway Food Town Inc.*, 34 USPQ2d 1587, 1592 (TTAB 1995) (suspended pending outcome of *ex parte* prosecution of opposer's application). If one of those proceedings is in

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its testimony or briefing periods the Board may order suspension of the other proceeding pending disposition of the proceeding that appears closer to issuance of a final decision. *See New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011).

Inasmuch as Opposition No. 91194706, is in its final stages, and involves the two parties involved herein, an identical mark as the subject mark, goods that are arguably related, and both proceedings are based upon a claim of priority and likelihood of confusion under Section 2(d) of the Trademark Act, 15 U.S.C. 1052(d), it appears a determination of issues in the opposition proceeding may have a bearing on the issues presented in this proceeding. While the Board is disinclined to use the term "moot," and disagrees with respondent's assertions regarding the opposition proceeding mooting this proceeding and its likelihood of prevailing in the opposition proceeding, this is not the standard. The standard is merely that the other proceeding *may* have a *bearing* on the instant proceeding. *See* Trademark Rule 2.117(a); TBMP § 510.02(a) (3d ed. rev. 2013).

Accordingly, proceedings are suspended pending final disposition of the opposition proceeding between the parties.

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Within **TWENTY DAYS** after the final determination of Opposition No. 91194706, the parties shall so notify the Board and call this case up for any appropriate action. During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.