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

Proceeding	92059220
Party	Defendant Stockmarket Burger Inc.
Correspondence Address	STOCKMARKET BURGER INC 13603 MARINA POINTE DR , C520 MARINA DEL REY, CA 90292 UNITED STATES temy@novelaffairs.com
Submission	Other Motions/Papers
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Date	06/27/2014
Attachments	Respondent's Motion to Suspend Proceeding Pending Disposition of Related Board Proceeding.pdf(50995 bytes)

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

RED BULL GMBH,)	
)	Cancellation No. 92059220
Petitioner,)	Registration No: 4481899
)	Mark: STOCKMARKET (& Design)
v.)	
)	
STOCKMARKET BURGER, INC.,)	
)	
)	
Respondent.)	
)	
)	
)	
)	
)	

**RESPONDENT'S MOTION TO SUSPEND PROCEEDING PENDING DISPOSITION OF
RELATED BOARD PROCEEDING**

Pursuant to 37 CFR § 2.117(a) and TBMP § 510.02(a), Respondent, Stockmarket Burger, Inc. ("Respondent") hereby moves the Trademark Trial and Appeal Board ("Board") to suspend this cancellation proceeding pending the disposition of a related Board proceeding (Opposition No. 91214537) involving the same parties and the same challenged marks. The Board's determination of the opposition will likely have a bearing on the issues before the Board in this case, and therefore, suspension is appropriate.

Pursuant to 37 CFR § 2.117(a), the Board may . . . in its discretion, suspend a proceeding pending the final determination of another Board proceeding in which the parties are involved TBMP § 510.02(a). Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board. *Id.* The Board does not usually require that an issue be joined (that an answer be filed) in one or both proceedings before the Board will consider suspending a Board proceeding pending the outcome

of another proceeding. *Id.* Such a requirement is made only in those cases where there is no stipulation to suspend and it is not possible for the Board to ascertain, prior to the filing of an answer in one or both proceedings, whether the final determination of the other proceeding may have a bearing on the issues before the Board. *Id.*

Opposition No. 91214537 involves the same parties as this case. That proceeding involves the plaintiff's challenge to registration of Applicant's mark STOCKMARKET (& Design) of Appl'n Ser. No. 85/969,820, depicted as follows:



for various goods in classes 11, 25, 30, 32, and 33. The registered mark sought to be cancelled here is the identical mark:



for various services in class 43.

Further, the plaintiff's pleaded marks in both cases are the same (Reg. No. 2,946,045 (two charging bulls design); Reg. No. 3,051,994 (two charging bulls design); Reg. No. 3,561, 283 (RED BULL & bull design); Reg. No. 4,031,959 (RED BULL ARENA & bull, arena, and soccer ball

design); and various "common law" marks containing "bulls" and "bovine animals"). The proceedings involve the same claims of priority and likelihood of confusion under Section 2(d) based on the same allegation that the defendant's STOCKMARKET (& Design) mark is similar or dissimilar to the plaintiff's registered and "common law" marks.

Given that both proceedings involve the same parties, marks, claims, and issues, the Board's determination of Opposition No. 91214537 will likely have a bearing on the outcome of this cancellation proceeding. Respondent's answer is not necessary for the Board to determine that both proceedings involve the same parties, marks, claims, and issues, and that therefore, the determination of the opposition may have a bearing on the outcome of this proceeding. Accordingly, this proceeding should be suspended pending the final determination of Opposition No. 91214537.

Date: June 27, 2014

Respectfully submitted,

/Paulo A. de Almeida/
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PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **RESPONDENT'S MOTION TO SUSPEND PROCEEDING PENDING DISPOSITION OF RELATED BOARD PROCEEDING** has been served on Martin R. Greenstein, counsel for Opposer, on June 27, 2014 via First Class U.S. Mail, postage prepaid to:

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/Paulo A. de Almeida
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