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

Proceeding	92059733
Party	Plaintiff Bio Clean, Inc.
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Submission	Motion to Suspend for Civil Action
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BIO CLEAN, INC.,

Petitioner,

v.

METH LAB CLEANUP, LLC,

Registrant.

Cancellation No. 92059733

Mark: METH LAB CLEANUP, LLC

Reg. No. 3,662,396

Registered: August 4, 2009

Int'l Class: 41

**OPPOSITION TO REGISTRANT'S REQUEST FOR A SHOW CAUSE ORDER AND  
REQUEST TO RE-SUSPEND PROCEEDINGS**

This action was suspended by the Board on December 15, 2014 (Dkt. 7) pending final determination of the civil action filed in the U.S. District Court for the Western District of Washington ("Washington civil litigation"). Trademark Rule 2.117(a). Unlike in parallel cancellation proceedings involving the same mark at issue herein (Nos. 92059752 and 92059751), the Board was not made aware of the ongoing pending status of the Washington civil action and, after no response was made to the Board's December 16, 2015 status request (Dkt. 8), the Board reset the trial dates on February 12, 2016 (Dkt. 9).

Petitioner respectfully requests that the Board re-suspend this proceeding for the same reasons it was originally suspended. Nothing has changed in the Washington civil litigation. There has been no final determination of the merits of the case. TBMP 510.02(b). Petitioner has filed and is awaiting ruling on a potentially dispositive summary judgment motion in defense of Registrant's claims in that case. In addition, trial on many remaining claims in the case—including those directly impacting the validity and/or enforceability of the trademark registration at issue in this cancellation proceeding—is scheduled for April 2016. Finally, there has been no final decision or opportunity for appeal of interlocutory orders, including the partial summary judgment order



referenced in Registrant's request for a show cause order. The outcome of the Washington civil action will therefore directly impact and resolve the issues involved in this cancellation proceeding, as well as many others affecting the parties.

The Board has the discretion to suspend a cancellation proceeding pending the outcome of another proceeding in another jurisdiction, and it is appropriate to do so in this case. 37 C.F.R. §2.117(a); *see Toro Co. v. Hardigg Industries, Inc.*, 187 USPQ 689 (TTAB 1975); *Tokaido v. Honda Associates, Inc.*, 179 USPQ 861 (TTAB 1973). *See also Careerxchange Inc. v. Corpnet InfoHub, Ltd*, 80 U.S.P.Q.2D (BNA) 1046 (TTAB 2005) (suspending of cancellation proceeding even after prior entry of default before Board due to infringement action filed in Florida). Moreover, this underlying TTAB Cancellation proceeding is in its infancy. Neither party has served their initial disclosures, served written discovery, or conducted any form of deposition practice.

Accordingly, Petitioner respectfully submits that the Board should exercise its discretion to re-suspend proceedings in this case pending final disposition of the Washington civil litigation.

RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2016.

s/ David A. Lowe, WSBA No. 24453

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**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above-identified document was served upon Registrant's counsel by email to:

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