

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: October 20, 2014

Cancellation No. 92059949

Diversey, Inc.

v.

Hydrox Chemical Company, Inc.

Robert H. Coggins,
Interlocutory Attorney:

Now before the Board is respondent's motion (filed September 29, 2014) to suspend this proceeding pending final determination of Civil Action No. 1:13-cv-07024 between the parties in the United States District Court for the Northern District of Illinois. Petitioner has filed a brief in opposition thereto. The Board exercises its discretion to determine the motion prior to the time in which respondent might otherwise file a reply brief in support thereof.

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 have a bearing on the Board case. *See* TBMP § 510.02(a) (2014). *See also New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011). In view this policy, respondent's motion to suspend proceedings pending final disposition of the civil action between the parties is granted. *See* Trademark

Rule 2.117(a). Petitioner's argument that the civil action has no bearing on this proceeding is not persuasive. It appears that the outcome of the civil action may have a direct bearing on petitioner's standing in the Board proceeding. Accordingly, proceedings are suspended pending final disposition of the civil action.

Within thirty days after the final determination of the civil action¹ the parties shall so notify the Board so that this proceeding may be called up for appropriate action (which may include resetting respondent's time in which to file an answer and/or considering the question of consolidation). Such notification to the Board should include a copy of any final order or final judgment which issued in the civil action.

During the suspension period, the parties must notify the Board of any address changes for the parties or their attorneys.² In addition, the parties are to promptly inform the Board of any other related cases, even if they become aware of such cases during the suspension period.³ Upon resumption, if appropriate, the Board may consolidate related Board cases.

¹ A proceeding is considered to have been finally determined when a decision on the merits of the case (*i.e.*, a dispositive ruling that ends litigation on the merits) has been rendered and no appeal has been filed therefrom or all appeals filed have been decided. *See* TBMP § 510.02(b).

² Respondent's appearances of counsel (filed September 29, 2014) are noted and entered.

³ The Board is aware of Cancellation No. 92059971 which involves the same parties.