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

Proceeding	92062794
Party	Plaintiff WeMash, Inc.
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Date	02/04/2016
Attachments	2016-02-04 Petitioner's Response to Motion to Suspend - WEMESH Cancellation.pdf(88654 bytes)

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

In the matter of Registration No. 4,757,374

WEMASH, Inc. Petitioner, v. WEMESH, INC., Registrant.	Cancellation No.: 92062794 Mark: WEMESH Registration No. 4,757,374 Registration Date: June 16, 2015
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**PETITIONER’S RESPONSE TO REGISTRANT’S MOTION TO SUSPEND PENDING
OUTCOME OF ANOTHER PROCEEDING OR, IN THE ALTERNATIVE, TO EXTEND
TIME TO ANSWER**

Pursuant to 37 C.F.R. § 2.117(a), TBMP §§ 510.02, *et seq.*, and any other applicable rules, Petitioner WeMash, Inc. (“WeMash” or “Petitioner”), by and through its counsel of record, hereby submits its Response to Registrant WeMesh, Inc.’s (“Registrant” or “WeMesh”) Motion to Suspend Pending Outcome of Another Proceeding or, in the Alternative, to Extend Time to Answer (Docket No. 4) (“Request to Suspend”), filed with the Board on January 15, 2016 in the above Cancellation proceeding (“Cancellation”).

Petitioner filed an action, *WeMash, Inc. v. WeMesh, Inc.*, Case No. 2:15-cv-08719-JFW (JPR) (“Action”), in the United States District Court for the Central District of California, against Registrant and its founder, Michael Pazaratz, alleging federal, California state and common law claims, including unfair competition and false designation of origin, federal cybersquatting, cancellation of Registrant’s U.S. Trademark Registration No. 4,757,374 for WEMESH (the “WEMESH” Mark), and declaratory judgment that Petitioner is not infringing any rights of

Registrant. Petitioner's claims in the Action arise out of Registrant and Mr. Pazaratz's creation, marketing and distribution of multimedia and entertainment software bearing colorable imitations of Petitioner's distinctive WEMASH (App. No. 86/320,744) and WEMES (App. No. 86/654,939) marks (collectively, the "WEMASH Marks"), including on or in connection with Registrant and Mr. Pazaratz's "WeMesh App," and otherwise using the term "WeMesh," in connection with their goods/services.

Petitioner acknowledges that there may be overlap in issues between the Action and the instant Cancellation, particularly given Registrant's admission that its WEMESH mark creates a likelihood of confusion with Petitioner's WEMASH Mark. *See* TBMP §§ 510.02(a) ("Unless there are unusual circumstances, 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."). However, as Registrant acknowledges, it has filed a motion to dismiss the First Amended Complaint in the Action, which could impact the propriety of the requested stay of this Cancellation; Registrant therefore concedes that a shorter stay of this Cancellation may be appropriate. *See* Request to Suspend p. 2 ("Thus, good cause exists to suspend these cancellation proceedings pending the disposition of the Action, or at least the disposition of Registrant's Motion to dismiss in the Action.") (emphasis added).

In the interest of consistency and judicial economy, Petitioner does not oppose Registrant's Request to Suspend at this time; however, Petitioner respectfully submits that a sixty (60) day suspension is appropriate, upon the expiration of which Registrant should be required to either Answer the Petition to Cancel or renew its Request to Suspend. Petitioner also reserves its rights to seek resumption of the Cancellation at any time including, but not limited to, any time prior to final disposition in the Action, based on events that may transpire in the Action, as Petitioner may deem appropriate or necessary.

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Respectfully submitted,

Dated: February 4, 2016

By: /Jessica A. Wood/
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Attorneys for Petitioner WEMASH, INC.

CERTIFICATE OF SERVICE

I hereby certify that I served a true and complete copy of the foregoing **PETITIONER'S RESPONSE TO REGISTRANT'S MOTION TO SUSPEND PENDING OUTCOME OF ANOTHER PROCEEDING OR, IN THE ALTERNATIVE, TO EXTEND TIME TO ANSWER** upon owner of record for the Registration by depositing one copy thereof via first class mail, postage prepaid, on February 4, 2016, addressed as follows:

WEMESH Inc.
340 Brookview Court
Ancaster CANADA L9G4C2

With a copy to counsel of record for Registrant, by depositing one copy thereof via overnight courier, postage prepaid, on February 4, 2016, addressed as follows:

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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being filed with the United States Patent and Trademark Office via the Electronic System for Trademark Trial and Appeals (ESTTA) on February 4, 2016.

/Jessica A. Wood/

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