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

Ex parte appeal no.	88819320
Appellant	Nicholas Argenziano
Applied for mark	ARGENT PLUMBING, HEATING & AIR CONDITIONING
Correspondence address	JAMES KLOBUCAR GEARHART LAW, LLC 41 RIVER ROAD SUMMIT, NJ 07901 UNITED STATES Primary email: james@gearhartlaw.com Secondary email(s): ustmdocket@gearhartlaw.com 908-273-0700
Submission	Motion for suspension
Attachments	88819320 - Motion to Suspend - AES 2.9.2022.pdf(529681 bytes )
Filer's name	James Klobucar
Filer's email	james@gearhartlaw.com, ustmdocket@gearhartlaw.com
Signature	/James Klobucar/
Date	02/10/2022

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

Nicholas Argenziano,  
Applicant.

Serial No. 88819320

Mark: ARGENT PLUMBING, HEATING & AIR  
CONDITIONING

**REQUEST FOR SUSPENSION UNDER TBMP §1213**

The Applicant hereby requests suspension of the current TTAB appeal, pursuant to TBMP §1213, for the purposes of submission of a trademark consent and co-existence agreement with the USPTO.

On December 3, 2020, Applicant first engaged attorney Mark Koffsky to seek a trademark consent agreement with Mr. Koffsky's client, Onofrio Argento, current owner of U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648, to register "ARGENT PLUMBING, HEATING & AIR CONDITIONING" (U.S. Trademark Application No. 88819320) as a trademark. Upon speaking with Attorney Mark Koffsky, and agreement by client Onofrio Argento, the undersigned prepared a trademark consent agreement to be executed by both parties. The trademark consent and co-existence agreement was transmitted to Mark Koffsky on May 21, 2021. We are currently awaiting review and execution of this trademark consent agreement by Onofrio Argento. See attached email exchange as Exhibit A. We have also contacted the Trademark Examining Attorney, as well as her supervisor regarding this trademark consent agreement on August 12, 2021.

Pursuant to TBMP §1213, prior to the issuance of the Board's decision in an *ex parte* appeal, proceedings with respect to the appeal may be suspended by the Board upon

written request by the Applicant showing good cause for the requested suspension. TBMP § 510.

The Board may suspend proceedings in an appeal, at the request of the Applicant, in the following situations listed below:

Proceedings in an *ex parte* appeal may be suspended by the Board if the application is remanded to the examining attorney, as, for example, for (1) consideration of an amendment to the application, or (2) consideration of a request for reconsideration of a final action, or (3) assertion of a new ground of refusal, or (4) submission of additional evidence or (5) to consider the effect of a decision in another Board proceeding, appeal or civil action that may have a direct bearing on the issues in the appeal. See TBMP § 1202.02, TBMP § 1203.02(a), TBMP § 1203.02(b), TBMP § 1204, TBMP § 1205, TBMP § 1206.01, TBMP § 1207.02, TBMP § 1207.06, and TBMP § 1209.

In this case the above subsection (4) applies – submission of additional evidence. The Applicant will be submitting shortly a consent to register the aforementioned application, based on the trademark consent and co-existence agreement, which the Applicant and the owner of the cited registration will be signing.

Moreover, a Combined Declaration of Use and Incontestability under Sections 8 and 15 was filed for U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648 on November 1, 2021. However, this Combined Declaration of Use and Incontestability under Sections 8 and 15 has not been accepted or rejected for U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648. Applicant believes that this Combined Declaration of Use and Incontestability under Sections 8 and 15 will be rejected, at least in part, for both U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648.

The Board has authority under Section 1213 of the Trademark Trial and Appeal Board Manual of Procedure to suspend an appeal where a registration cited under Section 2(d) is due “or will soon be due” for an affidavit of continued use (or excusable nonuse) under Section 8 of

the Trademark Act. *See* TBMP § 1213. As such, Applicant request suspension of the current TTAB appeal until a determination as to whether the cited registrations will continue in existence or will be cancelled.

WHEREFORE, Applicant respectfully requests that the subject appeal be suspended for the signing of the trademark consent and co-existence agreement and a determination as to whether the Combined Declaration of Use and Incontestability under Sections 8 and 15 for U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648 will be accepted.

Dated: February 10, 2022

Respectfully submitted,

By: /s/James Klobucar

James Klobucar  
Gearhart Law LLC  
41 River Road  
Summit, NJ 07901  
(908) 273-0700

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Request for Suspension was forwarded by email to the USPTO Examiner on this application, Andrea B. Cornwell, at [andrea.cornwell@uspto.gov](mailto:andrea.cornwell@uspto.gov) on this February 10, 2022.

By: /s/James Klobucar  
Name: James Klobucar

U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648

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Ashley Sperbeck

Thu 12/3/2020 2:09 PM

To: trademark@koffskyschwalb.com

Cc: James Klobucar



Dear Mr. Koffsky,

We represent Nicholas Argenziano, and are writing to you to seek a trademark consent agreement with Onofrio Argento, current owner of U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648, to register "ARGENT PLUMBING, HEATING & AIR CONDITIONING" (U.S. Trademark Application No. 88819320, first used in commerce on January 1, 1988) and the following design associated with U.S. Trademark Application No. 88819338, first used in commerce on January 1, 1988, as trademarks.



We are asking for consent because an examiner at the USPTO cited Onofrio Argento's U.S. Trademark Registration No. 4849645 for "ARGENTO" (first used in commerce on November 1, 1996) and U.S. Trademark Registration No. 4849648 (first used in commerce on July 1, 2014) for the following design against U.S. Trademark Application No. 88819320 and U.S. Trademark Application No. 88819338 under Trademark Act Section 2(d).



ARGENTO

As discussed below, we are confident that Onofrio Argento's trademarks will not confuse consumers. First, Nicholas Argenziano's U.S. Trademark Application No. 88819320 and U.S. Trademark Application No. 88819338 were first used in commerce on January 1, 1988, prior to use of the trademarks associated with U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648.

Moreover, while Onofrio Argento's trademarks utilize the wording "ARGENTO," which translates to "silver or something silvery or white," Nicholas Argenziano's proposed trademarks are associated with a surname. Additionally, U.S. Trademark Registration No. 4849648 contains a design distinct from Nicholas Argenziano's design in U.S. Trademark Application No. 88819338. As such, we are confident that there will be no confusion about the source of these referenced trademarks.

We thus ask if Onofrio Argento would be willing to provide written consent to Nicholas Argenziano for registering "ARGENT PLUMBING, HEATING & AIR CONDITIONING" (U.S. Trademark Registration No. 4849648) and the following design associated with U.S. Trademark Application No. 88819320 as trademarks.



We look forward to hearing back from you.

Best,

Ashley E. Sperbeck, M.S., M.S., Esq.  
Intellectual Property Attorney



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Fw: U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648

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**From:** Ashley Sperbeck <ashley.sperbeck@gearhartlaw.com>  
**Sent:** Friday, May 21, 2021 3:17 PM  
**To:** Mark Koffsky <mkoffsky@koffskyschwalb.com>  
**Cc:** James Klobucar <james@gearhartlaw.com>  
**Subject:** Re: U.S. Trademark Registration No. 4849645 and U.S. Trademark Registration No. 4849648

Hi Mark,

Thank you for taking the time to speak with us today. Attached please find a trademark consent agreement for your clients execution. Please let us know if you have any questions or concerns.

Best,

Ashley E. Sperbeck, M.S., M.S., Esq.  
Intellectual Property Attorney



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