

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

EAD

Mailed: March 8, 2004

Opposition No. 91157596

Herban Avenues, L.L.C.

v.

HerbanCowboy.com, Inc.

Elizabeth A. Dunn, Attorney:

Proceedings herein are suspended pending disposition of opposer's motion to dismiss the counterclaim to cancel pleaded Registration No. 2,499,364, filed November 6, 2003.¹ Any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. See Trademark Rule 2.127(d).

The stipulated protective agreement filed on December 2, 2003 is noted. The parties are referred, as appropriate, to TBMP §§ 412.03 (Signature of Protective Order), 412.04 (Filing Confidential Materials With Board), 412.05 (Handling of Confidential Materials by Board).

¹ Insofar as opposer's motion was accompanied by opposer's answer to the counterclaim, the Board's December 5, 2003 order is hereby vacated with regard to the requirement that opposer answer the counterclaim.

The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing paragraphs (d) and (e) of 37 CFR § 2.27, which provide, in essence, that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection.
