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

Proceeding	91167259
Party	Plaintiff Booster Juice Limited Partnership Booster Juice Limited Partnership 131 N. State Street, Suite D Lake Oswego, OR 97034 UNITED STATES
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Submission	Opposition/Response to Motion
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Date	07/27/2006
Attachments	Opposer Response to Motion to Suspend 91167259.txt (2 pages)(3356 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
Booster Juice Limited Partnership,
Opposer,
vs.
Boost Juice Holdings Pty.
Applicant.

Opposition No.: 91167259

OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO SUSPEND

Opposer Booster Juice Limited Partnership hereby responds to Applicant's Motion to Suspend.

Opposer consents to the granting of this motion, or in the alternative, to a resetting of the testimony period such that Opposer's testimony would begin September 20, 2006 and the other testimony dates would be reset accordingly.

However, Opposer objects to the grounds on which Applicant has based its motion and is filing this response to make its objection of record and to state its reason for consenting to a suspension of the case or to a re-setting of the testimony period.

The grounds for Opposer's consent is that Applicant served all of its discovery requests on Opposer on or about the final date of the discovery period, May 22, 2006. Opposer and Applicant are competitors, and Applicant should have known that a protective order would be required for its responding to a majority of the requested discovery. Accordingly, given the fact that Applicant's discovery request were all served at the very end of the discovery period and that testimony would be starting soon thereafter, Applicant should have expected that many objections based on confidentiality would be posited against its requests.

Further, Applicant was aware that when it served its discovery requests the then counsel for Opposer was transitioning into corporate practice and that the undersigned was substituting in. Indeed the undersigned became counsel of record on June 15, 2006, only a week before the discovery responses were due. Thus, because of this transition period, the undersigned did not even have the discovery requests in hand until nearly the end of the response period.

Thus, contrary to Applicant's allegations, the delay was caused not by Opposer, but by Applicant.

Nonetheless, it is in the interest of both parties and the Board for any outstanding discovery disputes to be resolved to the extent they can prior to the testimony period commencing, and given the difficulty of scheduling testimony during August, Opposer suggests that testimony for the party in the position of Plaintiff commence on September 20, 2006.

Respectfully submitted,
By:
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the OPPOSER'S RESPONSE TO APPLICANT'S MOTION TO SUSPEND was served by being deposited with the United States Postal Service via first class mail, postage prepaid on July 27, 2006, Applicant's counsel:

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Laila Z. Possani

Santa Monica, CA

Dated: July 27, 2006

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