

ESTTA Tracking number: **ESTTA397353**

Filing date: **03/10/2011**

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

Proceeding	91183174
Party	Plaintiff Upward Unlimited
Correspondence Address	RICHARD M. MOOSE DORITY & MANNING, P.A. P.O. BOX 1449 GREENVILLE, SC 29602 UNITED STATES docketing@dority-manning.com, rmm@dority-manning.com, arlene@dority-manning.com, pworkman@dority-manning.com
Submission	Motion to Suspend for Settlement Discussions
Filer's Name	J. Parks Workman
Filer's e-mail	docketing@dority-manning.com
Signature	/J. Parks Workman/
Date	03/10/2011
Attachments	3-10-11 UPU-9-M Renewed Consent Motion for Suspension.pdf ( 4 pages ) (78351 bytes )

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

In the matter of Application Serial Nos.:

Upward Unlimited,	)	
	)	
Opposer,	)	Opposition Nos.: 91183174 (parent)
	)	91183185
v.	)	
	)	
American Racing Equipment, LLC,	)	
	)	
Applicant	)	
	)	

**RENEWED CONSENT MOTION FOR SUSPENSION**

On January 13, 2011, Opposer Upward Unlimited ("Upward") filed a consent motion seeking suspension of this proceeding for 180 days to allow the parties to continue settlement efforts. On February 10, 2011, the Board consolidated Opposition Nos. 91183174 and 91183185 and denied the motion for suspension for failure to provide a detailed progress report of settlement negotiations. The February 10, 2011 Order allowed the parties thirty (30) days to submit a revised motion for suspension that is accompanied by a detailed status report on the parties' settlement negotiations.

The parties respectfully move this Board for a suspension of these consolidated opposition proceedings for thirty (30) days to allow the parties to finalize settlement of this matter as well as other matters pending before the Board. A detailed report of the status of settlement negotiations is presented below:

1. Upward and Applicant American Racing Equipment, Inc. ("American Racing") are currently engaged in settlement discussions to resolve this matter and four separate Opposition proceedings, including Opposition Nos. 91183174, 91183180, 91183183, and 91183185 (collectively "the Upward Oppositions").

2. Opposition Nos. 91183180 and 91183183 have been consolidated by the Board and suspended for 180 days pending settlement discussions by Order dated January 18, 2011. Opposition No. 91183186 has been suspended for 180 days pending settlement discussions by Order dated February 3, 2011.

3. The settlement discussions between Upward and American Racing have included the discussion of numerous terms and the exchange of draft agreements that could lead to resolution of this matter and the remaining Upward Oppositions. The settlement discussions between the parties have remained pending since 2009, at least in part, due to the status of an opposition filed by a third party involving certain trademark applications currently at issue in the Upward Oppositions.

5. The most recent settlement offer was extended by Upward on February 24, 2011. This settlement offer included a proposal that would resolve these consolidated opposition proceedings as well as the remaining Upward Oppositions and is currently being considered by American Racing. Upward expects a response from American Racing in the coming weeks.

6. Issues resolved since the commencement of these proceedings include terms concerning the use of the parties' respective marks on particular goods and services. The parties are still actively negotiating to resolve issues concerning the registration of certain of American Racing's marks for particular goods and services.

7. The parties believe that a one month suspension of proceedings will give the parties adequate time to attempt to resolve this matter.

8. Upward respectfully asks the Board to grant this consent motion to suspend proceedings so that the parties can continue to engage in settlement discussions and to allow the parties to resolve this matter.

9. In the interest of judicial economy, Upward further respectfully asks the Board to suspend this proceeding so that the parties are not required to move forward with this proceeding while the remainder of the Upward Oppositions have been suspended.

10. American Racing Equipment, Inc. joins in the filing of this Renewed Motion For Suspension.

Respectfully submitted,

DATE: March 10, 2011

  
\_\_\_\_\_  
J. Parks Workman  
Attorney for Upward Unlimited

  
\_\_\_\_\_  
Leigha Weinberg  
Attorney for American Racing Equipment,  
Inc.

Dority & Manning, P.A.  
P. O. Box 1449  
Greenville, SC 29602-1449  
Telephone: (864) 271-1592  
Facsimile: (864) 233-7342

Morgan, Lewis & Bockius, LLP  
One Market, Spear Tower  
San Francisco, CA 94105  
Telephone: (415) 442-1326  
Facsimile: (5415) 442-1001

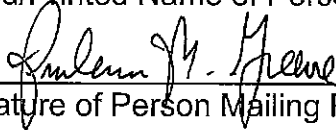
**CERTIFICATE OF SERVICE**

It is hereby certified that copies of the **RENEWED CONSENT MOTION FOR SUSPENSION** for Consolidated Oppositions No: 91183174 were served on Applicant's counsel via First Class Mail on March 10, 2011, as follows:

Leigha E. Weinberg  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105

Prudence M. Greene

\_\_\_\_\_  
Typed/Printed Name of Person Mailing Paper



\_\_\_\_\_  
Signature of Person Mailing Paper