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

Proceeding	91183857
Party	Plaintiff Premium Denim, LLC
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Submission	Reply in Support of Motion
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Date	08/02/2010
Attachments	Reply to opposition to Motion to Suspend Proceedings.pdf ( 4 pages )(115446 bytes )

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

Premium Denim, LLC,  
Opposer,

v.

Paige Hamilton, United States individual,  
Applicant.

Opposition No. 91/183,857

Appl. Serial No.: 77/159,559

Mark: PAIGE HAMILTON DESIGN

Published for Opposition:

April 1, 2008

Atty. Ref. No.: 66884-0021

**REPLY TO OPPOSITION TO MOTION TO SUSPEND PROCEEDINGS**  
**UNDER 37 C.F.R. §2.117 (a) and T.M.B.P. §510**

This is in reply to the Opposition filed by Paige Hamilton to Premium Denim's Motion to suspend the opposition proceeding in light of its filing of a federal court complaint for trademark infringement.

Paige Hamilton erroneously suggests that there was some ulterior motive to the filing of the motion to suspend and its timing. This is flatly denied.

While preventing the registration of PAIGE HAMILTON is clearly an essential part of Premium Denim's worldwide enforcement strategy, another essential part of its enforcement strategy is stopping use of what it believes to be infringing marks. It has filed such suits previously and has instituted a plethora of opposition, cancellation and nullity actions in various countries consistent with this strategy.

Premium Denim is not a huge company and so it must budget its legal resources. In this particular case, it certainly could have filed suit earlier and sought suspension earlier, but it did not. Instead it was hopeful that before the parties had to incur the costs of testimony and

briefing, Paige Hamilton would have agreed to cease use of the PAIGE HAMILTON mark and withdraw its application. It is noted that the marks are used on highly related goods. The delay in filing suit and hoping for an amicable resolution before significant fees and costs are incurred is not an unusual strategy.

Since Paige Hamilton has not agreed to cease use and withdraw its application, Premium Denim decided to file suit. It felt that the most cost-effective way to bring this dispute to conclusion - both as to registration and use - was to file a federal district court suit. Paige Premium is not interested in delaying the ultimate outcome; its interest is to bringing all of the issues to decision as soon as possible.

Continuing with the opposition will not accomplish this goal. With all due respect, the Board's factual and legal findings are not binding upon a federal district court. Moreover, even if the Board were to rule adverse to either party, a natural route of appeal would be filing a federal district court action where the standard is de novo. So after all of the time and effort were spent, not only by the parties, but also by the Board, the case would most likely still end up before the federal district court.

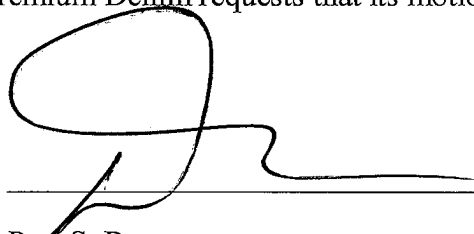
Moreover, Paige Hamilton has not sought to stay the federal district court action. Indeed, regardless of how the Board rules on the present motion, the federal district court action will still continue. As a result, if the opposition proceeding is not stayed, there will most certainly be duplicate effort with both the testimony and briefing before the Board, and all of the proceedings before the federal district court.

The duplication and waste of judicial resources is the very reason why in general the Board should suspend a pending opposition action in favor of a district court action. This is not a case where testimony has been completed and briefs have been filed. There has been no

significant discovery in this case and basically only a motion to narrow the claims before the Board. This is not a case which justifies the denial of a motion to suspend.

For all of the foregoing reasons, Premium Denim requests that its motion be granted.

Dated: August 2, 2010

A handwritten signature in black ink, appearing to be 'Rod S. Berman', written over a horizontal line.

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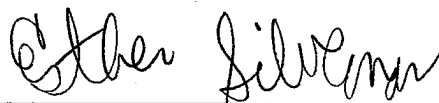
**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED THAT A COPY OF THE FOREGOING MOTION TO SUSPEND PROCEEDINGS UNDER 37 C.F.R. §2.117 (A) AND T.M.B.P. §510 HAS BEEN SENT BY FIRST CLASS MAIL TO THE ATTORNEY OF RECORD FOR APPLICANT:

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8/2/10



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Esther Silverman