

ESTTA Tracking number: **ESTTA468831**

Filing date: **04/24/2012**

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

Proceeding	91189221
Party	Defendant Kabushiki Kaisha Sony Computer Entertainment (ATA Sony Computer Entertainment Inc.)
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Date	04/24/2012
Attachments	I06065 4-24-12 filing.pdf ( 5 pages )(159996 bytes )

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

Chris Kingsley and Jason Kingsley	)	
	)	
Opposer,	)	<b>Opposition No. 91189221 (parent)</b>
	)	Serial No. 77/194729
v.	)	Mark: BIOLITH REBELLION
	)	
Kabushiki Kaisha Sony Computer Entertainment, (a/t/a Sony Computer Entertainment Inc.),	)	
	)	
Applicant.	)	
	)	
-----and-----		
Kabushiki Kaisha Sony Computer Entertainment, (a/t/a Sony Computer Entertainment Inc.),	)	
	)	
Opposer,	)	Opposition No. 91194245
	)	Serial No. 77/598554
v.	)	Mark: REBELLION
	)	
Chris Kingsley and Jason Kingsley,	)	
	)	
Applicant.	)	
	)	

**APPLICANT’S OPPOSITION TO OPPOSER’S REQUEST  
FOR FURTHER SUSPENSION OF PROCEEDING**

Applicant Kabushiki Kaisha Sony Computer Entertainment (a/t/a Sony Computer Entertainment Inc.) (“Sony Computer”) opposes Opposers’ Request for Further Suspension, and so advises the Board of the following premises:

**Background**

1. Per usual procedure, upon Sony Computer’s filing of the summary judgment motion, the Board issued an order suspending all proceedings herein pending disposition of the

motion. (Dkt. # 33) The subsequent Order denying summary judgment, however, kept the suspension in place so that the Opposer Chris Kingsley and Jason Kingsley (“Kingsleys”) could “provide the Board with the current status of, and operative pleadings from, the [European] Community proceeding: “Proceedings remain suspended pending a response from the Kingsleys.” (March 20 Order, Dkt. # 36, slip op. at 5)

2. On April 4, 2012, the Kingsleys filed and served a “Reply to the March 20, 2012 Order issued by the Board and Request For Further Suspension Of Proceeding.” (Dkt. # 37) In that submission, the Kingsleys advised the Board that by a February 11, 2011 decision of the Community’s Office for Harmonization in the Internal Market, Cancellation Division, trade mark No. 5954987 was declared invalid in relation to the contested goods. That decision, however, is not final as it is currently being appealed. The Kingsleys requested that the Board continue the current suspension in the instant proceeding pending a final decision on the Community appeal, reasoning that if the invalidity declaration is upheld, that would influence the Board’s decision on registration here.

**Sony Computer’s Mark is Eligible for Registration**

3. Sony Computer has satisfied all of the requirements for U.S. registration. The fact that the underlying registration would eventually expire or might someday be cancelled as a result of a foreign proceeding is not relevant to whether the applicant’s mark is eligible for U.S. registration.

4. TMEP §1002.01 (Eligible Applicants Under §44(e)) provides in relevant part:

To be eligible for registration under §44(e), an applicant must meet the following requirements:

(1) The applicant's country of origin must be a party to a treaty or agreement with the United States that provides for registration based on ownership of a foreign registration, or must extend reciprocal registration rights to nationals of the United States (15 U.S.C. §1126(b)); and

(2) The applicant must be the owner of a valid registration in the applicant's country of origin (15 U.S.C. §1126(c) and (e)). (emphasis added)

5. Sony Computer satisfies the foregoing requirements: it is undisputed that Sony Computer's country of origin is a party to the relevant treaties and it is the owner of a valid foreign registration. A U.S. registration may issue as long as "[t]he foreign registration [is] in force at the time the United States issues the registration based on that foreign registration." TMEP §1004.01(a) (Status of the Foreign Registration).

6. A valid U.S. registration obtained pursuant to Section 44(e) is not void or voidable even if the original underlying registration expires or is cancelled after the issuance of the U.S. registration.

#### **Further Suspension is Not Warranted**

7. The relevant suspension provisions are found in TMEP § 510(a)–(c). Because there presently is no related "civil action" (subsection a.) between the parties or a "motion which is pending potentially dispositive" (subsection b.), the Kingsleys' suspension request is presumably sought under subsection c, which requires a showing of "good cause."

7. Good cause does not exist to suspend the current Board proceeding pending the outcome of the Community appeal. To suspend the instant proceedings would be to erect a policy of suspending any U.S. application or registration as long as some foreign-based contingency

might occur in the future that may or may not affect registration. It would simply not be sound policy or practice to put domestic cases like this one on hold in order to wait for disputes involving foreign tribunals to be decided. That is a recipe only for unduly protracted U.S. application proceedings. The merits of this case can and should be resolved without further delay.

Wherefore, Applicant Sony Computer submits that it is eligible for registration under Section 44(e) and that the instant proceedings should not be further suspended.

Respectfully submitted,

Kabushiki Kaisha Sony Computer Entertainment  
(a/t/a Sony Computer Entertainment Inc.)

Date: April 24, 2012

By: 

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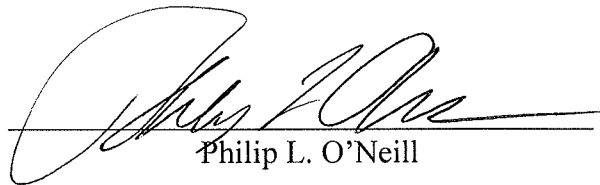
Attorneys for Applicant

Atty. Dkt. No.: I06065

**CERTIFICATE OF SERVICE**

I hereby certified that a copy of the foregoing APPLICANT'S OPPOSITION TO OPPOSERS'S REQUEST FOR FURTHER SUSPENSION FOR PROCEEDING was electronically filed in the Patent and Trademark Office on April 24, 2012, and was served on counsel for the Opposer via first class mail, postage prepaid, the same day, as follows:

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