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

Proceeding	91195187
Party	Defendant OMNIRELIANT HOLDINGS, INC.
Correspondence Address	H. WILLIAM LARSON LARSON & LARSON PA 11199 69TH ST LARGO, FL 33773-5504  larsonb@tampabay.rr.com
Submission	Motion to Suspend for Civil Action
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Date	06/28/2010
Attachments	OmniReliant TTAB motion to suspend.pdf ( 3 pages )(19124 bytes )

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

GLOBAL CONCEPTS LIMITED, INC., )		
d/b/a GLOBAL TV CONCEPTS, LTD. )		
	)	
<b>Opposer,</b>	)	Opposition No. 91195187
	)	Serial No. 77/721,489
	)	
v.	)	
	)	
OMNIRELIANT HOLDINGS, INC., )		
	)	
<b>Applicant.</b>	)	
_____ )	)	

**MOTION TO SUSPEND PENDING OUTCOME OF CIVIL ACTION**

Applicant hereby moves that all further proceedings in this opposition be suspended pending resolution of *Omniresponse, Inc. v. Global Concepts Limited, Inc. et al*, filed on June 17, 2010 in the United States District Court of the Southern District of Florida, Civil Action No. 0:10-cv-61029-JIC (hereinafter Florida Litigation). The Trademark Trial and Appeal Board (hereinafter Board) may suspend a proceeding if a pending civil litigation involves legal issues which may have a bearing on the proceeding. *See* 37 C.F.R § 2.117. Common legal issues exist in the Florida Litigation and this opposition proceeding. Therefore, the Board should suspend all further action in this proceeding pending termination of the Florida Litigation.

In this proceeding, Opposer has requested that the Board refuse to register the mark DualSaw. Opposer alleges in its Complaint that the DualSaw mark is merely descriptive and has not acquired distinctiveness in connection with “circular saws” in international class 007. *See* Opposer’s Complaint ¶¶ 12-14 (June 14, 2010). Acquired distinctiveness is the same as secondary meaning. *See* *Welding Servs. v. Forman*, 509

F.3d 1351, 1358 (11th Cir. 2007) (citing *Am. Television & Communications Corp. v. Am. Communications & Television, Inc.*, 810 F.2d 1546, 1548-49 (11th Cir. 1987)). In the Florida Litigation, the Plaintiff alleges, “DualSaw is a descriptive mark that has acquired secondary meaning in the marketplace.” Pl’s Compl. ¶ 7 (June 17, 2010) (emphasis added) (attached as Exhibit A). A Federal district court will make a determination on the issue of secondary meaning associated with DualSaw. Because the issue of whether the mark acquired secondary meaning is the same legal issue as whether the mark acquired distinctiveness, the Florida Litigation and this opposition proceeding share common legal issues. *See* Opposer’s Complaint ¶¶ 12-14; Pl’s Compl. ¶ 7. “To the extent that a civil action in a Federal district court involves issues in common with those in a proceeding before the Board, the decision of the Federal district court is often binding upon the Board . . . .” Trademark Trial and Appeal Board Manual of Procedure, Chapter 510.02(a) (March 2004), available at [http://www.uspto.gov/trademarks/process/appeal/tbmp\\_ed2\\_rev1.pdf](http://www.uspto.gov/trademarks/process/appeal/tbmp_ed2_rev1.pdf). Consequently, the Board should suspend this opposition proceeding until the termination of the Florida Litigation because the Florida Litigation and this proceeding have a common legal issue which, if determined, may be binding on the Board.

Respectfully submitted,

s/H. William Larson

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 28, 2010, a true and complete copy of the foregoing **MOTION TO SUSPEND** document has been served on Jose Gutman, Attorney for Opposer via email to [timboca@fgbb.com](mailto:timboca@fgbb.com) and First Class Priority Mail, postage prepaid to:

FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.  
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