

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

EJW

Mailed: December 8, 2010

Opposition No. 91196928

Kirstin E. Hitchcock

v.

Maruman & Co., Ltd.

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

The Board notes applicant's request for the Board's participation in the parties' discovery conference under Trademark Rule 2.120(a). In view thereof, the Board has reviewed the proceeding and related matters, and makes the following findings and orders.

In the Board's institution order in this proceeding (mailed October 15, 2010), the Board required as follows:

If the parties to this proceeding are (or during the pendency of this proceeding become) parties in another Board proceeding or a civil action involving related marks or other issues of law or fact which overlap with this case, they shall notify the Board immediately, so that the Board can consider whether consolidation or suspension of proceedings is appropriate (Board emphasis added).

Further, it is the policy of the Board to suspend proceedings when the parties are involved in a civil action

Opposition No. 91196928

or other Board proceeding, which may be dispositive of or have a bearing on the Board case. See Trademark Rule 2.117(a), 37 C.F.R. § 2.117(a).

The Board notes that Opposition No. 91196808, *Heal the World Foundation v. Kirstin Hitchcock*, which involves opposer in this proceeding, has been suspended pending the outcome of a civil action¹ involving the opposer in that proceeding. In said civil action, plaintiffs seek, *inter alia*, to cancel U.S. Reg. No. 3567671 (the mark pleaded by opposer in Opposition No. 91196808) and to enjoin use of the mark "MJ" by the opposer in Opposition No. 91196808 (shown in the applications referenced in the notice of opposition therein). In view thereof, the Board suspended Opposition No. 91196808 based on its finding that the civil action has a bearing on that opposition.

The Board finds that the outcome of Opposition No. 91196808 may have a bearing on opposer's rights in her mark in this proceeding.² In view thereof, it is appropriate

¹ *Branca, et al v. Heal the World Foundation, et al*, Case No. CV09-07084, filed in the United States District Court, Central District of California, Western Division. See TTABVUE entry #5 at <http://ttabvueint.uspto.gov/ttabvue/v?pno=91196808&pty=OPP&eno=5>.

² The Board also notes that *Heal the World Foundation*, opposer in Opp. No. 91196808, has also opposed the registration of the mark involved herein in Opp. No. 91196896; and that a motion to suspend pending a civil action has been filed by said opposer (in view of the same civil action referenced herein) in Opp. No. 91196896.

Opposition No. 91196928

that this proceeding should be also be suspended pending the final determination of Opposition No. 91196808. See *Id.* See also TBMP 510.02(a) (2d ed. rev. 2004). Cf. *The Tamarkin Co. v. Seaway Food Town Inc.*, 34 USPQ2d 1587, 1592 (TTAB 1995) (suspended pending outcome of *ex parte* prosecution of opposer's application).

Accordingly, in the interest of judicial economy and consistent with the Board's inherent authority to regulate its own proceedings, this proceeding is **SUSPENDED** pending final disposition of Opposition No. 91196808. Upon resumption of this proceeding, conferencing, disclosure dates, the discovery period and all trial dates will be reset. Additionally, should either party seek the Board's involvement in the parties' mandatory discovery conference, either party should make a new request therefor.

Within *twenty days* after the final determination of the above-referenced Board proceeding, the parties shall so notify the Board and call this case up for any appropriate action. During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.

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