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

Proceeding	91202952
Party	Plaintiff Atari Interactive, Inc.
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Attachments	Motion Suspend.pdf(383915 bytes)

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

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ATARI INTERACTIVE, INC., :
 :
 Opposer, : Opposition No. 91202952
 :
 v. :
 :
ANDREW N. GREENBERG, :
 :
 Applicant. :
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ATARI'S MOTION TO SUSPEND

Opposer, Atari Interactive, Inc., hereby moves pursuant to Trademark Rule 2.117(c) for a sixty-day suspension of this opposition. Atari is currently in bankruptcy in the United States Bankruptcy Court for the Southern District of New York, Case No. 13-10176-jmp. In that proceeding, Atari's assets, including its HAUNTED HOUSE trademark and Registration No. 4,037,222 of that mark, on which Atari's claims in this opposition are based, are being offered in an asset auction, which is currently expected to take place in mid-July under the supervision of the United States Bankruptcy Court. After the auction takes place, Atari is unlikely to be the owner of the mark being asserted in this opposition and, consequently, will have no interest in the outcome of this proceeding. The requested suspension will enable the purchaser of the HAUNTED HOUSE trademark, who will be the real party in interest, to assert its rights in the manner it deems appropriate, and will conserve the time and resources of the Board and the parties. For these reasons, Atari requests that this proceeding be suspended for sixty days.

I. Argument

Trademark Rule 2.117(c) provides that proceedings may be suspended for good cause. 37 C.F.R. § 2.117(c). The Trademark Trial and Appeal Board Manual of Procedure contemplates that good cause may exist where a plaintiff files for bankruptcy. *See* TBMP § 510.03(a). Atari submits that good cause exists for the suspension of this opposition due to the scheduled bankruptcy auction of Atari's assets, including the HAUNTED HOUSE trademark and registration upon which this opposition is based. Because it is unclear at this point who will own the HAUNTED HOUSE registration following the bankruptcy auction scheduled for mid-July, pursuing this opposition may turn out to be unnecessary. A buyer may have different business concerns about Applicant's activities than Atari has, which could affect the terms of any settlement, the direction of this proceeding or whether to pursue this proceeding at all. It therefore would be more efficient and cost-effective for the Board and the parties to defer this opposition for sixty days to allow the auction to be completed, at which time it will be clear who will own the HAUNTED HOUSE trademark and what that party's interest in the mark will be in the future.

In *Amgen Inc. v. American Phytotherapy Research Laboratory*, Opposition No. 110,161, 2001 TTAB LEXIS 344 (T.T.A.B. April 23, 2001) (non-precedential), the Board found good cause for suspending for six months an opposition in which the opposer was undertaking a business review that might impact its decision whether or not to proceed with the opposition. Similarly, the outcome of Atari's bankruptcy auction is likely to have an impact on whether this opposition proceeds. Thus, the requested stay may eliminate potentially unnecessary litigation and will therefore conserve the resources of the Board and the parties. In addition, proceeding

with this opposition at this time places an undue burden on Atari, which is supposed to be conserving its resources to pay off its creditors.

The bankruptcy auction is currently scheduled to be held in mid-July, with a final completion of the sale in August. Thus, a sixty-day stay should enable Atari to determine if there will be a new owner of the HAUNTED HOUSE trademark and/or whether Atari will have reason to continue with this opposition or settle this matter with Applicant. Accordingly, Opposer respectfully requests that the Board stay this opposition for sixty days.

Opposer has sought Applicant's consent to this motion, but Applicant has informed Opposer that he does not consent to this request.

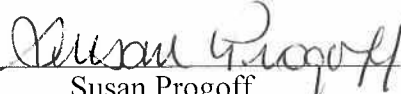
III. Conclusion

For the foregoing reasons, Atari requests that its motion be granted and this opposition be stayed for sixty days.

Respectfully submitted,

DORSEY & WHITNEY LLP

Dated: June 11, 2013

By 
Susan Progoff
Fara Sunderji

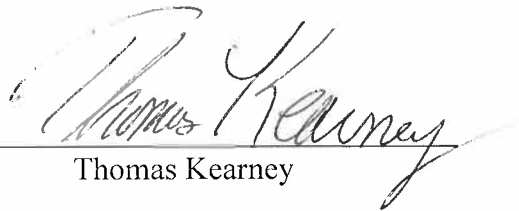
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June, 2013, the foregoing Atari's Motion to Suspend is being served upon Applicant via e-mail at hdiandrew@earthlink.net, as previously agreed between Applicant and Opposer's counsel, and by first class mail, postage prepaid, addressed as follows:

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Thomas Kearney