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

Proceeding	91202952
Party	Defendant Andrew N. Greenberg
Correspondence Address	ANDREW N GREENBERG 1846 HEBRON HILLS DR TUCKER, GA 30084-5901 UNITED STATES hdiandrew@earthlink.net
Submission	Other Motions/Papers
Filer's Name	Andrew N Greenberg
Filer's e-mail	hdiandrew@earthlink.net
Signature	/Andrew Greenberg/
Date	06/24/2013
Attachments	Opposition to Motion to Suspend.pdf(45624 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.

-----X

**APPLICANT'S OPPOSITION TO MOTION TO SUSPEND**

Applicant, Andrew N. Greenberg, Inc., hereby opposes Atari's motion to suspend this proceeding for a third time. Applicant has already agreed to two previous sixty-day suspensions since discovery began. Both previous motions for suspension were made specifically for the purpose of engaging in negotiations for the settlement of this matter. Now Atari is seeking a third consecutive suspension.

**I. Argument**

Atari claims it is moving for a suspension since it is in bankruptcy. Atari filed for bankruptcy January 21, 2013. Atari has claimed it will conduct its normal business operations during the bankruptcy proceedings. This proceeding falls within such normal business operations.

Atari predicates its motion to suspend upon the supposition that it will be able to sell "Haunted House" to a buyer. Atari presents no evidence that there is any interest in buying "Haunted House" or that it has any value to anyone outside of Atari.

Atari's reference to *Amgen Inc. v. American Phytotherapy Research Laboratory* is not applicable in that case, as it was the first request for suspension, not the third. However, Atari has

already received two suspensions, delaying this case significantly

Atari claims the suspension “ may eliminate potentially unnecessary litigation and will therefore conserve the resources of the Board and the parties.” Atari’s unwillingness to negotiate during the previous suspensions, along with its failure to show any likelihood “Haunted House” will actually be sold, make that claim unlikely.

Most surprisingly, Atari also claims “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.” This is an especially facetious argument as, not only did Atari bring this claim, but it has consistently failed to address the burden such suspensions place on Applicant. Accordingly, Applicant respectfully requests that the Board deny Atari’s motion to stay this opposition for another sixty days.

### III. Conclusion

For the foregoing reasons, Applicant requests that Atari’s motion be denied and this opposition continue as scheduled.

Respectfully submitted,

Dated: June 21, 2013




Andrew Greenberg  
1846 Hebron Hills Dr.  
Tucker, GA 30084

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24th day of June, 2013, the foregoing Applicant's Opposition to Motion to Suspend is being served upon Opposer via e-mail at progoff.susan@dorsey.com, as previously agreed between Applicant and Opposer's counsel, and by first class mail, postage prepaid, addressed as follows:

Susan Progoff  
Dorsey & Whitney  
51 West 52nd Street  
New York, NY 10019

  
Andrew Greenberg