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

Proceeding	91205081
Party	Defendant Dynamic Sports Nutrition, LLC
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Date	01/21/2014
Attachments	2259-36 Motion to Suspend.pdf(12603 bytes)

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

In the Matter of Trademark Application No. 85/340,058
Published in the Official Gazette on January 10, 2012

Merck Sharp & Dohme B.V. (as successor	§	
in interest to MSD OSS B.V.),	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. 91205081
	§	
Dynamic Sports Nutrition, LLC,	§	
	§	
Applicant.	§	

**APPLICANT'S MOTION TO SUSPEND PROCEEDINGS PENDING APPLICANT'S
MOTION TO CONSOLIDATE**

Pursuant to 37 C.F.R. §§ 2.117(c) and 2.127(a), Dynamic Sports Nutrition, LLC ("Applicant"), by its attorneys, hereby moves the Trademark Trial and Appeal Board ("TTAB") to suspend this proceeding pending the disposition of Applicant's November 25, 2013 Motion to Consolidate. It is within the Board's discretion to suspend proceedings for good cause. *See* TBMP 510.03(a) (citing 37 C.F.R. § 2.117(c)).

Applicant requested consent from Opposer to file a Motion to Consolidate the "DECA-DURABOLIN" and "DURABOLIN" trademark oppositions due to the relatedness of the parties, the relatedness of the marks at issue, the related causes of action, and the related affirmative defenses. Despite numerous attempts by Applicant to obtain Opposer's consent, Opposer never provided Applicant with a definitive response as to whether or not Opposer would be willing to consent. Subsequently, on November 25, 2013 Applicant filed a Motion to Consolidate the Proceedings Without Consent.

Nearly two months have passed since the filing of Applicant's Motion to Consolidate the Proceedings Without Consent. The March 29, 2014 deadline for the discovery period to end in the "DECA-DURABOLIN" opposition is rapidly approaching. Similarly, the May 11, 2014 deadline for the discovery period to end in the "DURABOLIN" opposition is also rapidly approaching. Applicant believes that these upcoming deadlines, in combination with the uncertainty regarding how to serve discovery requests in the respective oppositions, constitutes good cause for suspending the proceedings until the Board issues an Order with respect to Applicant's Motion to Consolidate.

Applicant therefore respectfully requests suspension of these proceedings pending determination of the civil action pursuant to Trademark Rule 2.117(c). Applicant further notes that "[w]hen a party fails to file a brief in response to a motion, the Board may treat the motion as conceded." *See* TBMP 502.02; *see also* 37 CFR 2.127(a). As of this date, nearly two months after the filing of Applicant's Motion to Consolidate the Proceedings Without Consent, Opposer has still not filed a response to Applicant's Motion. As such, Applicant respectfully requests the Board issue an Order granting Applicant's Motion to Consolidate the Proceedings.

Respectfully submitted,

January 21, 2014
Date

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document is being sent by first class mail on January 21, 2014, to the attorney of record for Opposer at the following address:

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Hope Hamilton
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