

ESTTA Tracking number: **ESTTA691926**

Filing date: **08/26/2015**

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

Proceeding.	91222410
Applicant	Defendant KIK Interactive Inc.
Other Party	Plaintiff Keek Inc.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, KIK Interactive Inc. hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

KIK Interactive Inc. has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

KIK Interactive Inc. has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Respectfully submitted,

/Judd D. Lauter/

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08/26/2015

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

In the matter of Application Serial No. 85/893,307
For the Trademark KIK & Design
Published in the Official Gazette on February 17, 2015

KEEK, INC.)	
)	
Opposer,)	
)	Opposition No. 91222410
v.)	
)	
KIK INTERACTIVE, INC.)	
)	
Applicant.)	
)	
_____)	

CONSENTED MOTION TO SUSPEND PROCEEDING

Pursuant to TBMP § 510.02 and 37 CFR § 2.117(a), Applicant Kik Interactive, Inc. (“Applicant”) hereby files this consented motion to suspend the above-referenced opposition proceeding pending the disposition of *Kik Interactive, Inc. v. Keek, Inc.*, Case No: 1:15-cv-04605, currently pending before the United States District Court for the Southern District of New York (the “District Court Action”).

On June 12, 2015, Applicant initiated the above-referenced District Court Action alleging, among other things, that Opposer Keek, Inc.’s (“Opposer”) KEEK trademark infringes Applicant’s KIK & Design trademark. Applicant seeks to enjoin Opposer from using the KEEK trademark and to cancel Keek’s U.S. Registration No. 4,166,529 for the mark KEEK. A true and correct copy of the complaint in that proceeding is attached hereto as Exhibit A.

Under 37 CFR § 2.117(a), suspension is appropriate where a civil action is pending that involves issues in common with those in a proceeding before the Board. *See, e.g., General*

Motors Corp. v. Cadillac Club Fashions, Inc., 22 USPQ2d 1933 (TTAB 1992) (granting motion to suspend cancellation proceedings where determination in co-pending district court action would be dispositive of the issues before the Board). Indeed, “the Board will suspend proceedings in the case before it if the final determination of the other proceeding may have a bearing on the issues before the Board.” TBMP § 510.02(a). Applicant is challenging Opposer’s use of the KEEK mark on the ground that it is likely to cause consumer confusion with respect to Applicant’s registered and unregistered KIK trademarks, including the subject of Application Serial No. 85/893,307 (the “Application”), and seeks cancellation of Opposer’s registration for the mark KEEK. Because Opposer’s use and registration of the KEEK mark serve as the basis of its standing to oppose the Application, specifically in regard to the harm Opposer will allegedly suffer as a result of the registration of the Application, the District Court Action bears on the issues before the Board in this proceeding.

In light of the foregoing, Applicant respectfully requests that the instant proceeding be suspended immediately pending disposition of the District Court Action.

Respectfully submitted,

Dated: August 26, 2015

COOLEY LLP

/Judd D. Lauter/

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Counsel for Applicant Kik Interactive, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, a true and correct copy of the foregoing **CONSENTED MOTION TO SUSPEND PROCEEDING** was mailed via first class mail to Opposer's counsel of record at the following address:

Timothy P. Fraelich
Jones Day
901 Lakeside Avenue North Point
Cleveland, OH 44114-1190

Date: August 26, 2015

/Vicki Vaughan/

Vicki Vaughan