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Filing date: **05/27/2021**

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

Proceeding	91244205
Party	Plaintiff Integrated Supply Network, LLC
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Submission	Response to Board Order/Inquiry
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Signature	/Michael T. Hess/
Date	05/27/2021
Attachments	1460.9007101 Opposer's Status Update 5-27-21.pdf(109360 bytes )

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

In the Matter of Application Serial Number: 87/719840

Mark: **MONSTER**

<p>INTEGRATED SUPPLY NETWORK, LLC, Opposer, v. MONSTER ENERGY COMPANY, Applicant.</p>	<p>Opposition No.: 91244205</p>
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**OPPOSER'S STATUS UPDATE**

Pursuant to the Board's Order of April 27, 2021, the Opposer hereby provides the Board with notice that the civil action (5:17-CV-0548-CBM-RAO) which occasioned the stay of this proceeding remains pending. Trial concluded on November 16, 2018. The result of the trial at the district court was appealed (19-55760) and cross-appealed (19-55800) to the 9<sup>th</sup> Circuit. Applicant's initial brief for the appeal/cross-appeal was filed on October 11, 2019, Opposer's initial brief for the appeal/cross-appeal was submitted on November 12, 2019, Applicant's response brief was filed on January 13, 2020, and Opposer's reply brief was filed on February 3, 2020. The 9<sup>th</sup> Circuit held oral arguments the week of July 6<sup>th</sup>- July 10<sup>th</sup>, 2020. The 9<sup>th</sup> Circuit affirmed the district court's denial of an injunction for Applicant, affirmed the district court's denial of Applicant's motion to increase damages, vacated the district court's award of \$1 in

nominal damages to Applicant, vacated the district court's award of \$5,000,000 in punitive damages to Applicant, vacated the district court's award of attorneys' fees and costs to Applicant, and remanded for further proceedings on Applicant's equitable claims for disgorgement and for injunctive relief under the California Unfair Competition Law. On remand, on April 12, 2021, the Court granted Applicant's Motion for Disgorgement of Profits and ordered Opposer to disgorge profits. Applicant has also stated its intent to again seek attorney's fees, but that motion has not been made. Opposer has filed a notice of appeal regarding the disgorgement order. Accordingly, Opposer requests that the Board continue the suspension of the above-captioned opposition proceeding.

Should the Board require any additional information, please contact the undersigned.

Respectfully submitted,

Dated: May 27, 2021

/Michael T. Hess/  
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Attorney for Opposer  
Integrated Supply Network, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing OPPOSER'S STATUS UPDATE has been served on Applicant's counsel, Paul A. Stewart on, May 27, 2021 by email to the following email address:

- [efiling@knobbe.com](mailto:efiling@knobbe.com)

Dated: May 27, 2021

/tracy l. knop/  
Tracy L. Knop

CERTIFICATE OF TRANSMITTAL

I hereby certify that the foregoing OPPOSER'S STATUS UPDATE is being filed electronically with the TTAB via ESTTA on, May 27, 2021.

Dated: May 27, 2021

/tracy l. knop/  
Tracy L. Knop