

ESTTA Tracking number: **ESTTA1204597**

Filing date: **04/22/2022**

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

Proceeding no.	91266658
Party	Plaintiff Chubby Gorilla, Inc.
Correspondence address	STACEY HALPERN KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET, 14TH FLOOR IRVINE, CA 92614 UNITED STATES Primary email: <a href="mailto:efiling@knobbe.com">efiling@knobbe.com</a> 949-760-0404
Submission	Motion to Strike
Filer's name	Stacey Halpern
Filer's email	<a href="mailto:efiling@knobbe.com">efiling@knobbe.com</a>
Signature	/Stacey R. Halpern/
Date	04/22/2022
Attachments	CHGOR.268M.pdf(87972 bytes )

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

Chubby Gorilla, Inc.,	)	Opposition No.: 91266658
	)	
Opposer,	)	Mark: GORILLA GRIP and
	)	GORILLA GRIP
v.	)	
	)	
Hills Point Industries, LLC,	)	
	)	
Applicant	)	
	)	

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**CHUBBY GORILLA, INC.’S MOTION TO STRIKE  
APPLICANT’S MOTION TO AMEND SECTION 15 FILING**

Chubby Gorilla, Inc. (“Chubby Gorilla” or “Opposer”) hereby moves to strike Applicant’s Motion to Amend Section 15 Filing (collectively “Applicant’s Motion”) on the grounds:

1. On February 3, 2021 the Trademark Trial and Appeal Board (the “Board”) issued an Order consolidated the above-referenced Opposition Proceeding with Opposition No. 91253105 as the Parent Opposition Proceeding. The February 3, 2021 Order indicated that all filing after that answer should only be filed in the Parent Opposition Proceeding.
2. On February 1, 2022, the Board issued an Order suspending the Parent Opposition Proceeding pending Chubby Gorilla’s Motion to Consolidate.
3. On March 29, 2022, Chubby Gorilla filed a Motion to Suspend Pending Civil Action in the Parent Opposition Proceeding. Applicant did not contested this Motion (and which should be granted as uncontested).

As Applicant's Motion is in violation of the Board's February 3, 2021 Order (and the Board's February 1, 2022 Order), it should be stricken. If the event that the Board disagrees, Chubby Gorilla requests that the Board suspend its determination on Applicant's Motion pending resolution of the civil action and provide Chubby Gorilla with time to oppose Applicant's Motion if the civil action does not render Applicant's Motion moot.

Specifically, as indicated above, on February 3, 2021, the Board issued an Order consolidating the above-referenced Opposition with the Parent Opposition Proceeding. The February 3, 2021 Order specifically state

The Board file will be maintained in Opposition No. 91253105 as the "parent" case. As a rule, from this point on the parties should no longer file separate papers in connection with each proceeding, but file only a single copy of each paper in the parent case. Each paper filed should bear the numbers of all consolidated proceedings in ascending order.

Thus, even if Applicant's Motion was timely and proper (which Chubby Gorilla contends it was not), it should have only been filed in the Parent Opposition Proceeding.

Further, as discussed above, on February 1, 2022, the Board suspended the Parent Opposition Proceeding. Thus, it is apparent that Applicant has attempted to circumvent the Board's February 3, 2021 and February 1, 2022 Orders by filing Applicant's Motion in connection with the above-identified Opposition Proceeding. As such, Applicant's Motion is improper and should be stricken.

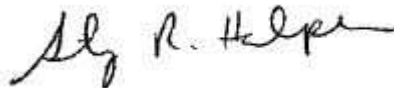
Moreover, on March 29, 2022, Chubby Gorilla filed a Motion to Suspend Pending Civil Action in the Parent Opposition Proceeding. As Applicant's Motion does not pertain the Chubby Gorilla's Motion to Suspend Pending Civil Action and as Applicant's deadline to respond to the Motion to Suspend Pending Civil Action has now passed, the Motion to Suspend Pending Civil Action should be granted as uncontested. As such, Applicant's Motion should be stricken.

As Board's Order specifically instructed Applicant to only file documents in the Parent Opposition Proceeding, Applicant's Motion should be stricken. Alternatively, a decision on Applicant's Motion should be suspended pending a decision on the Motion to Consolidate and the Motion to Suspend Civil Action as it is likely that the civil action will render Applicant's Motion moot. In the event that the civil action does not decide all issues between the parties and does not render Applicant's Motion moot (which Chubby Gorilla believes it will), Chubby Gorilla should be given an opportunity to oppose Applicant's Motion at that time.

As striking Applicant's Motion or suspending it will save the Board's resources, Chubby Gorilla respectfully requests that Applicant's Motion should be stricken and that the Motion to Suspend Pending Civil Action should be granted as uncontested.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP



Dated: April 22, 2022

By: \_\_\_\_\_

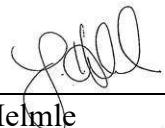
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Attorney for Opposer,  
Chubby Gorilla, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing **CHUBBY GORILLA, INC.'S**  
**MOTION TO STRIKE APPLICANT'S MOTION TO AMEND SECTION 15 FILING** upon  
Applicant's counsel via electronic mail addressed as follows on April 22, 2022:

pto@gordonjacobson.com

davidj@gjip.com

  
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Lisa Helmle

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