

ESTTA Tracking number: **ESTTA1308589**

Filing date: **09/07/2023**

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

Proceeding no.	91269888
Party	Defendant AOB Products Company
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Submission	Motion to Dismiss 2.132
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Date	09/07/2023
Attachments	Motion to Dismiss.pdf(204734 bytes )

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

In the matter of  
Trademark Application No.: 88/977,969

Mark: **BUBBA**  
Filed: August 15, 2019  
Published: February 16, 2021

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Bubba Foods, LLC,	)	
	)	
Opposer	)	
	)	Opposition No. 91269888
v.	)	
	)	
AOB Products Company,	)	
	)	
Applicant	)	

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MOTION FOR INVOLUNTARY DISMISSAL FOR FAILURE TO TAKE  
TESTIMONY UNDER 37 C.F.R. § 2.132(a)

Applicant, AOB Products Company, by and through its attorneys, hereby moves, pursuant to Trademark Rule § 2.132(a), for dismissal of the subject opposition proceeding because Opposer, Bubba Foods, LLC, has failed to prosecute its opposition. The thirty-day testimony period for Opposer expired on October 2, 2022. Opposer did not take any testimony, serve Opposer with any notices for taking testimony, and did not file any evidence. Nor did Opposer file a motion seeking to extend the trial dates prior to their expiration. Because Opposer is no longer able to obtain testimony and submit the evidence necessary to prove its case, the opposition should be dismissed with prejudice and judgment should be granted in favor of Applicant.

Applicant notes that entry of an order dismissing the opposition will conclude this matter in its entirety. Applicant instituted a counterclaim seeking cancellation of Opposer's Trademark Registration No. 3,941,200 ("the '200 Registration). The '200 Registration, however, was cancelled by the United States Patent and Trademark Office on November 12, 2021, after Opposer failed to timely file an acceptable declaration and specimen under Section 8.

Applicant respectfully requests dismissal of the subject opposition proceeding as it should no longer be necessary for Applicant to obtain testimony and produce evidence to defend the opposition in its thirty-day testimony period, which is scheduled to begin on October 2, 2023.

Dated: September 7, 2023

Respectfully submitted,

/Hara K. Jacobs/

Hara K. Jacobs

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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION FOR INVOLUNTARY DISMISSAL FOR FAILURE TO TAKE TESTIMONY UNDER 37 C.F.R. § 2.132(a) has been served by forwarding a copy, via email, to the address listed below:

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Dated: September 7, 2023

/Jodi A. DeSchane/