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Filing date: **08/24/2021**

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

Proceeding No.	91270862
Filing Party	Defendant Justh Holdings, LLC
Other Party	Plaintiff Vamsi M. Nallapati
Pending Motion	There is no motion currently pending and no other motion is being filed concurrent with this consent motion.
Attachments	20201 08 24 TTAB Motion to Suspend full.pdf(1279090 bytes)

Consent Motion for Suspension in View of Civil Proceeding

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

Justh Holdings, LLC has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Certificate of Service

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

Respectfully submitted,
/DavidWSar/
David W. Sar
dsar@brookspierce.com
08/24/2021

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition No. 91270862
Application Serial Nos. 88597466 (for ATELIER BY COSMOS)

VAMSI M. NALLAPATI, Opposer, v. JUSTH HOLDINGS, LLC, Applicant.	**CONSENTED TO MOTION TO SUSPEND IN VIEW OF CO-PENDING FEDERAL LITIGATION (WITH EMBODIED SUPPORTING BRIEF)**

Applicant, Justh Holdings, LLC ("Applicant"), by and through undersigned counsel, brings to the attention of the Board a currently pending lawsuit related the present proceeding, namely, Civil Action No. 5:20-cv-00047 (E.D.N.C.) (the "Civil Action"), and, pursuant to TBMP § 502 and § 510.02(a), in view of the Civil Action, moves to suspend proceedings pending final disposition of the Civil Action. Opposer, through counsel, consents to suspension, as reflected below and in Exhibit B.

Opposer attached to its Notice of Opposition a copy of the February 6, 2020 Complaint (without exhibits) filed in the Civil Action. Opposer, who is also the Plaintiff in the Civil Action, has twice amended his complaint in the Civil Action. A copy of the operative March 10, 2021 Second Amended Complaint, without exhibits, is attached as hereto as Exhibit A. In both the original Complaint and the currently operative Second Amended Complaint, Opposer/Plaintiff seeks orders and declarations about the instant application (No. 88597466, for ATELIER BY COSMOS), as well as cancellation of three "COSMOS" registrations owned by Applicant, namely Reg. Nos. 5803910 (COSMOS GRANITE & MARBLE), 5774030 (composite of COSMOS

GRANITE & MARBLE and design), and 5757082 (VIVID COSMOS), among other things. S*ee, e.*g, Original Complaint at p. 18, Prayer for Relief §§ A, C, E, & F; Second Amended Compl. at p. 18, Prayer for Relief §§ A, C, E, & F. For example, and without limitation, in the Civil Action Opposer seeks orders directing the Commissioner to cancel the registrations and deny the applications, declarations as to who is the "rightful owner" of a group of marks including the mark subject to the instant application and opposition, and declarations that the applications were fraudulent and failed to comply with requirements of the Trademark Act. *Id.* These claims and sought relief are being vigorously contested by Applicant/Defendant.

Previously, on May 13, 2020, Opposer/Plaintiff filed a Notice of Opposition initiating Opposition No. 91255855 concerning two other trademark applications filed by Applicant, which applications are also the subject of Opposer's claims in the Civil Action. Upon Opposer's own motion, that prior opposition was suspended by the Board pending the Civil Action. *See* Opp. No. 91255855, Docket #16, Order (Oct. 20, 2020). Opposer's own motion to suspend stated, among other things, "[t]he pertinence of those registrations is evident from the pleadings in the federal lawsuit and those in the instant proceeding," and "[t]he outcome of the federal lawsuit, which was filed prior to the instant proceedings, will be dispositive of Applicant's *Morehouse* defense as well as other issues in the proceeding." *See* Opp. No. 91255855, Docket #15, Motion to Suspend (Aug. 18, 2020).

Clearly since the instant opposition and the Civil Action share the same parties and many of the same issues, and they both concern the instant application among other things, then the outcome of the Civil Action may be dispositive of or have a bearing on the instant Board case. *See* Trademark Rule 2.117(a). The instant opposition (No. 91270862) should therefore be suspended, much like how the prior opposition (No. 91255855) has been suspended, pending final disposition of the Civil Action.

Opposer has indicated that it consents to suspension upon the wording set forth in Exhibit B. Opposer's effort in the attachment to gain consolidation in addition to suspension, or even to

gain prejudgment of the issue of consolidation, is contrary to the Board's direction, is not agreed to at this time by both parties,[1] and is not merited at this time. Specifically, the Board's prior order in the first Opposition (No. 91255855) expressly addresses the proper procedure for potential consolidation with other proceedings and states: "[u]pon resumption, if appropriate, the Board may consolidate related Board cases." *See* Opp. No. 91255855, Docket #16, Order (Oct. 20, 2020) at 2. The Board has therefore already determined the proper sequencing of issues – namely, not to consider consolidation until the original opposition proceeding resumes. Then, it "may" but will not necessarily consolidate. This procedural sequencing is consistent with TBMP § 511, which provides the Board's standard practice: "[g]enerally, the Board will not consider a motion to consolidate until an answer has been filed … in each case sought to be consolidated," although consolidation may be ordered earlier, of course.

Further, consolidation may not be merited at all. First, the typical main justification for consolidation is to achieve efficiencies in discovery and motions practice about discovery. But here, the oppositions are to be suspended pending the Civil Action, in which discovery has been and will be occurring. So, those efficiencies may not be present in the future and there may be no need to consolidate in the future. Second, the instant application is different from the other Cosmos marks in that it starts with the words "ATELIER BY," and thus may be perceived differently by the relevant consuming public or present different factual issues for the respective oppositions. Lumping its consideration in with the others may be prejudicial to the Applicant. Third, while Opposer/Plaintiff claims to have used one or more of the other Cosmos marks, there has never been any allegation that Opposer/Plaintiff has used "ATELIER BY COSMOS" or any version of "ATELIER." Accordingly, the character and extent of the issues and facts in question in the two proceedings are sufficiently different to militate against consolidation, as consolidation may be

[1] At the current time, Applicant does not agree to consolidation. If Opposer files a motion about the matter or if the Board is inclined to consolidate *sua sponte*, Applicant requests the opportunity to be heard in a proper procedural context.

possibly prejudicial to the Applicant/Defendant. *See Izod, Ltd. v. La Chemise Lacoste*, 178 U.S.P.Q. 440, *3 (TTAB 1973) (denying consolidation due to differences in the character and extent of issues despite both oppositions concerning the same application, both opposers being subsidiaries of the same corporate parent, and the same attorneys representing both opposers). Opposer/Plaintiff's claims about the instant application likely involve some different facts and legal issues than for the other applications and registrations. For example, the original opposition focuses upon on issues of ownership and rights and their impact upon whether there was fraud in the application/registrations subject to the original opposition; but in contrast the instant opposition would apparently focus instead upon whether there is likelihood of confusion between whichever original Cosmos marks Opposer/Plaintiff claims to own and ATELIER BY COSMOS, a mark Opposer/Plaintiff does not even claim to have ever used. Accordingly, it is not obvious that consolidation should ever occur, and certainly consideration of the issue is premature now. Opposing counsel's attempt to tie the two issues – and worse, without a proper motion and response – is not only contrary to the Board's express procedural direction but would likely result in unfairness, prejudice and increased and unnecessary litigation and expenditure of resources now. Indeed it is possible that this issue might never need to be resolved, depending upon what happens in the Civil Action or between now and that future time when the Civil Action is disposed of.

Suspension – and suspension alone – thus appears proper and advisable now, and it is consistent with the Board's practice in such matters. *See* TBMP 501.02(a).

Respectfully submitted, this the 24th day of August, 2021.

/David W Sar/
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CERTIFICATE OF FILING/SERVICE

I do hereby certify that on date indicated below, I filed via electronic means (ESTTA) the foregoing document with the:

U. S. Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

with a copy via email to counsel of record, including:

emailboxTTAB@oliveandolive.com
solive@oliveandolive.com
bcrews@oliveandolive.com
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kap@parryfirm.com

This the 24th day of August, 2021.

/David W Sar/
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EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
Western Division
Civil Case No. 5:20-cv-47-D

VAMSI M. NALLAPATI and IGM SURFACES, LLC, Plaintiffs v. JUSTH HOLDINGS, LLC, and HARI HARA PRASAD NALLAPATY, Defendants	**SECOND AMENDED COMPLAINT**

Plaintiffs Vamsi M. Nallapati ("Vamsi") and IGM SURFACES, LLC ("IGM;" together with Vamsi, collectively, "Plaintiffs") complain of Justh Holdings, LLC and Hari Hara Prasad Nallapaty ("Defendants") as follows:

NATURE OF THE ACTION & INTRODUCTION

1. This is an action for declaration of rights under the Trademark Act of 1946, as amended ("Trademark Act" (aka "Lanham Act")), 15 U.S.C. § 1051 *et seq*. Specifically, Plaintiffs seek a declaration from this Court that Defendant Justh Holdings, LLC is not the rightful owner of the following marks (the "Disputed Marks") that are the subject of federal registrations and pending federal trademark applications, all as listed below:

US Registration No.	US Application No.	Mark
5,803,910	88148621	COSMOS GRANITE & MARBLE
5,757,082	88148631	VIVID COSMOS
5,774,030	88153502	
[not yet registered]	88597471	COSMOS
[not yet registered]	88597467	COSMOS SURFACES
[not yet registered]	88597466	ATELIER BY COSMOS

2. An actual and substantial controversy exists between the parties concerning their respective trademark and related rights. The parties have adverse legal interests, and an actual controversy for this court to declare judgment. This Court is authorized to declare the rights of the parties in this case pursuant to the Lanham Act, 15 U.S.C. § 1051 *et seq.*, the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and N.C. Gen. Stat. §1-253 *et seq.*

3. In addition, Plaintiffs seek, and this Court is authorized to grant, cancellation of the fraudulently obtained federal trademark registrations listed above, pursuant to 15 U.S.C. § 1119.

4. This is also an action under the laws of the United States for false designation of origin, 15 U.S.C. §1125; under the laws of North Carolina for unfair and deceptive trade practices in violation of N.C. Gen. Stat. § 75-1.1 *et seq*, as the fraudulent acts and demands complained of in this Second Amended Complaint are in and affecting commerce in this State; and for civil conspiracy between the defendants to engage in the unlawful acts described in this Second Amended Complaint, including by making false claims to the United States government to procure property to which they were not entitled, in violation of the laws of the United States and of North Carolina.

5. Each paragraph of this Complaint is incorporated by reference into each Count hereof, as though fully set out therein.

PARTIES

6. Plaintiff Vamsi M. Nallapati is an individual residing in Wake County, North Carolina.

7. Plaintiff IGM Surfaces, LLC, is a North Carolina limited liability company. Its majority owner is NVM Surfaces, LLC. Vamsi is the sole manager of both of these limited liability companies, whose offices are located in Wake County, North Carolina.

8. Defendant Justh Holdings, LLC ("Justh") is a company organized under the laws of the State of Delaware (2014). Its principal place of business is in the State of Washington. Defendant Justh is the applicant for each of the above-referenced trademarks and the registrant of each of the above-referenced trademark registrations.

9. Defendant Hari Hara Prasad Nallapaty is the manager of Defendants and controls its actions. Defendant Nallapaty is a resident and citizen of the Republic of India.

10. Because of the similarity of surnames, Vamsi Nallapati will be referred to hereafter as "Vamsi" and Prasad Nallapaty will be referred to hereafter as "Prasad."

11. The parties to this action have a long history. In short, Vamsi and Prasad are cousins. Vamsi conceived the "Cosmos" business name and mark and began using it approximately 15 years ago. Since that time, Vamsi has been involved in multiple businesses around the country that have used the "Cosmos" name and mark in some form, including IGM. Defendants'

principal, Prasad, is well aware of Vamsi's long-time use of the Cosmos name and mark, as Prasad has been involved in different capacities in many of these businesses that Vamsi founded.

12. IGM is one of the businesses in which Vamsi is involved, and Vamsi is the president of IGM, and manages it. Formerly operating under the name International Granite & Marble, IGM does not do business under a COSMOS trade name but does offer COSMOS-branded products to its customers, which are supplied to it by other businesses with which Vamsi has a relationship.

13. The relationship between Vamsi and Prasad soured several years ago and, as a result, they have been involved in multiple lawsuits in courts across the country arising out of their involvement in these Cosmos-named businesses, including a business dissolution proceeding in the North Carolina Business Court.

14. As described more fully below, during the pendency of the Business Court litigation and without notice to Vamsi or other interested parties, Prasad caused Justh to file fraudulent trademark applications seeking federal registration of various iterations of the Cosmos name and design. Three of those applications have matured to registration and the others are still pending. It is these fraudulent applications and resulting registrations that are the focus of this lawsuit.

JURISDICTION AND VENUE

15. This Court has original jurisdiction under 15 U.S.C. §§ 1119 and 1121, and 28 U.S.C. §§ 1331 and 1338.

16. The matter in controversy in this action exceeds the sum or value of $75,000, exclusive of costs and interests, and is between citizens of different states and/or nations. Accordingly, this Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332.

17. Defendants are subject to the *in personam* jurisdiction of this Court in multiple ways, including ways that have arisen very recently and since the filing of the original complaint, thereby giving rise to this Second Amended Complaint:

    a. Defendants conduct substantial business in North Carolina and relied on evidence of North Carolina business activities in order to obtain the registrations that are at issue in this lawsuit.

    b. Defendants have taken advantage of the courts of North Carolina, both federal and state. Defendants have, for example, recently filed a lawsuit in this very district against Vamsi, styled *Nallapaty, et al. v. Nallapati, et al.*, 5:18-CV-98, a suit which Defendants (then as Plaintiffs) voluntarily dismissed in early 2019. In the resolution of this and other lawsuits, Defendants have agreed to the exclusive venue and jurisdiction of North Carolina courts.

c. During the pendency of this matter and while the parties have been jostling over personal jurisdiction, after Defendant Justh filed a motion to dismiss this action on account of its alleged lack of activities in North Carolina or other contacts with North Carolina, Defendants have used their ill-gotten registrations and pending applications to insist, in North Carolina and through their counsel of record in the above-referenced North Carolina suits, that Plaintiffs stop using the marks that are at the heart of this very action. As recently as July 7, 2020:

   i. Defendant Justh claimed that it "has not and does not authorize Vamsi or any entity in which [Vamsi] holds an interest to use the COSMOS GRANITE trademarks in connection with" any business or location. Vamsi's businesses and locations that are thus threatened by Defendants include Vamsi's Raleigh and Greensboro locations, and also include IGM.

   ii. Defendants then issued a similar warning to IGM. Specifically, "[Defendant Justh] likewise has not and does not authorize International Granite & Marble to use the COSMOS GRANITE trademarks or to associate itself or its current or former locations with those trademarks."

   iii. Defendants further demanded that Vamsi "remove all references to [IGM] and its locations from the cosmosgranite.com website," including from a company catalogue that is released from and in North Carolina.

   iv. Finally, Defendants demanded that Vamsi and IGM refrain from using the COSMOS GRANITE trademarks in "any other written or electronic materials distributed by [Vamsi] through any means." This of course includes IGM's own website and the COSMOS GRANITE catalogs to which it provides access for its customers. Such distribution and the means employed to use the COSMOS GRANITE trademarks that are at issue in this matter, both by Vamsi and by IGM, necessarily occur and take place from North Carolina.

   v. Defendant Justh also threatened that it expressly "reserves all rights and remedies, and nothing in [the] correspondence should be taken to limit or prejudice in any way any factual or legal position taken by Justh or Hari Hara Prasad Nallapaty in any pending legal action."

d. Yet more recently, in separate incidents on each of January 21, 2021, and February 17, 2021, Defendants through their North Carolina counsel sent demand letters to Vamsi in North Carolina, as well as to additional persons and businesses with which Vamsi is associated. The demand letters asserted Justh's ownership of the registrations and marks in dispute, purported to withdraw rights that Defendants claimed to have granted to Vamsi and his affiliated entities, and stated

that continued use of the Cosmos Marks by Vamsi and his associated entities would constitute trademark infringement. Vamsi resides in North Carolina and most of the recipients of this correspondence reside in North Carolina and/or are business entities organized and existing under the laws of North Carolina, and the demand letters were addressed to those persons and entities in North Carolina.

18. Therefore, venue is proper in this district pursuant to 28 U.S.C. § 1391.

FACTS

19. In 2003, Vamsi founded a corporation under New Jersey law (named NVM International Inc.) to import, distribute, and sell granite and natural stone products to construction and design professionals and retailers. Vamsi founded the business, created the name and brand, controlled the day-to-day operations of the business, and was the corporation's sole salesperson and employee.

20. In 2005, Vamsi moved to North Carolina, registered his corporation to do business in North Carolina, adopted the name "Cosmos Granite & Marble," and began using COSMOS, typically with the descriptive language "Granite & Marble," as a mark to identify the services provided through the businesses he controlled. In that same year, Vamsi purchased the domain ***cosmosgranite.com*** and soon thereafter established a website at that address to advertise these services. Printouts showing pages from Vamsi's ***cosmosgranite.com*** website as they appeared in early 2007 are attached as **Exhibit 1.**

21. From 2005 to the present and without cessation, Vamsi has used and authorized use of COSMOS (alone and with other words) as a mark, business name, and domain name. All such uses have been in connection with the importation, distribution, and sale of granite and natural stone products (collectively referred to hereafter as "Services"). These marks that include the term COSMOS, whether with or without design elements, are referred to hereafter as the "COSMOS Marks."

22. In 2009, Vamsi converted his New Jersey corporation to a North Carolina corporation. He later formalized the addition of the "East" designation when he converted his corporation to a limited liability company. The corporate documents associated with these changes were recorded with the North Carolina Secretary of State and true copies are attached hereto as **Exhibits 2 and 3** (the latter showing recordation of Cosmos Granite (East), LLC as the company's name).

23. In or around 2009, Vamsi started using a design mark that incorporated his COSMOS Marks, depicted as follows (referred to hereafter as the "Original Cosmos Design Mark"):

COSMOS
Granite & Marble

A true copy of the homepage of Vamsi's **cosmosgranite.com** website showing the Original Cosmos Design Mark as it was in use on February 3, 2009 is attached as **Exhibit 4**.

24. Because he was using the Original Cosmos Design Mark, Vamsi secured a federal trademark registration for the words with the associated design. Vamsi's application was granted and U.S. Registration 4,028,275 issued in September 2011, covering the Original Cosmos Design Mark as used for "distributorship services in the field of granite, marble, travertine, onxy [*sic*], lime stone, slate; import agency services in the field of granite, marble, travertine, onxy [*sic*], lime stone, slate." A copy of Vamsi's registration is attached as **Exhibit 5**.

25. Thereafter, a graphic designer was employed to draw the modernized logo depicted below, which Vamsi promptly placed in use.

26. Unfortunately, Vamsi's registration was cancelled on November 16, 2018, after he failed to comply with a technical requirement of the U.S. Trademark Office that he file a declaration confirming he continued to use the mark.

27. Meanwhile, Prasad apparently was lying in wait for an opportunity to take advantage of Vamsi's error. On October 9, 2018, after Vamsi had missed his deadline to file the required declaration but before Vamsi's registration of the Original Cosmos Design Mark had been formally and actually cancelled, Prasad caused Justh to file three applications covering use of COSMOS Marks in connection with the Services, seeking registration in Justh's name of:

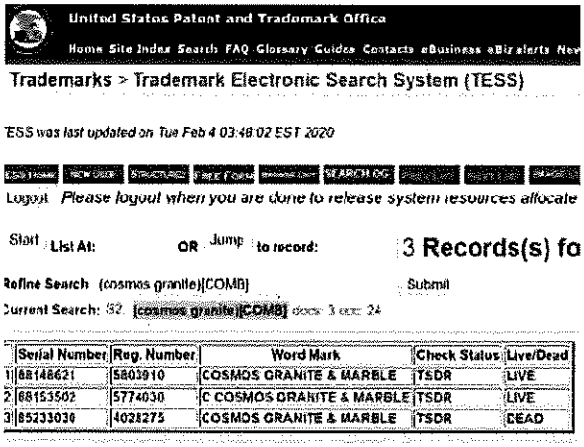
    a. the words COSMOS GRANITE & MARBLE;

    b. the words VIVID COSMOS; and

    c. the words COSMOS GRANITE & MARBLE in the modernized logo form that Vamsi had previously adopted, as shown below:

Prasad signed each of these three applications in his capacity as manager of Defendant Justh.

28. Because these three applications were filed on behalf of Justh *before* Vamsi's registration was eventually and actually cancelled, Vamsi's registration was still on the Principal Register at the time of the application. Vamsi's registration was at that time, and the cancelled registration remains today, easily discoverable by way of the simplest of searches conducted on the Trademark Office's publicly accessible website, including by searches using simple terms such as "Cosmos" or "Cosmos Granite." For example: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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Feb 4 03:48:02 EST 2020

Logout Please logout when you are done to release system resources allocate

Start List At: OR Jump to record: 3 Records(s) fo

Refine Search (cosmos granite)[COMB] Submit

Current Search: S2 (cosmos granite)[COMB] docs: 3 occ: 24

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	88148621	5803910	COSMOS GRANITE & MARBLE	TSDR	LIVE
2	88153502	5774030	C COSMOS GRANITE & MARBLE	TSDR	LIVE
3	85233030	4028275	COSMOS GRANITE & MARBLE	TSDR	DEAD

29. Trademark searches are a normal precursor to the filing of any federal trademark application, conducted in advance of the filing. It is extremely unlikely that Defendants or their attorneys were unaware of the existence of Vamsi's mark on the Principal Register at the time they participated in filing Justh's applications.

30. As part of each of the applications to register these three Disputed Marks on behalf of Justh, Justh was required to, and did, submit evidence of its use of the Disputed Mark. Defendants told the Trademark Office, as part of Justh's applications, that this evidence of Justh's use was "a[n] catalog and screen shots from Applicant's website showing prominent use" of the mark for which registration was sought. But in fact:

    a. the catalog was posted on Vamsi's website ***cosmosgranite.com*** rather than on any website owned by Defendant Justh or by either of Defendants; had been created by and under the direction of Vamsi rather than by either of Defendants; Defendants had been permitted by Vamsi to use the catalog to promote their

Services but the catalog did not belong to Defendant Justh or either of Defendants; and

b. the screenshots were taken from Vamsi's website ***cosmosgranite.com***, rather than from any website owned by Defendant Justh or either of Defendants, and specifically were taken from a subpage on that website that Vamsi had permitted Defendants to use.

31. At the time Defendants filed, or caused to be filed, each of the applications to register these three Disputed Marks, and continuously since that time, Defendants were well aware that:

a. Vamsi had conceived the use of the COSMOS name and brand;

b. Vamsi had first used COSMOS Marks in commerce for the Services as set forth above, beginning at least as early as 2005;

c. Vamsi was the first user in commerce and was at the least an owner of each of the three Disputed Marks for which Defendants sought registration;

d. Vamsi was still using the COSMOS Marks (including each of these three Disputed Marks) in commerce for the Services;

e. Vamsi was entitled to continue using the COSMOS Marks (including these three Disputed Marks) in commerce for the Services; and

f. the catalog and screen shots Defendants submitted as part of the applications filed in Justh's name were not a "catalog and screen shots from Applicant's website" but were instead were a catalog and screen shots from Vamsi's website ***cosmosgranite.com*** that Defendants were not entitled to pass off as Justh's own for trademark application purposes.

32. Defendants did not, however, disclose these facts to the United States Trademark Office as part of the applications that Defendants filed, or at any later time while the applications were being considered by that Office.

33. As a result of Defendants' nondisclosures and false representations, each of Justh's applications to register these Disputed Marks was approved and issued as a federal registration in 2019, without Vamsi's knowledge. Copies of the certificates of registration obtained by Defendants for these three Disputed Marks are attached as **Exhibits 6-8.**

34. On July 26, 2019, Vamsi acquired the domain ***cosmossurfaces.com*** and almost immediately began using this domain as an additional means for advertising the Services being offered by himself and his permitted users and their businesses — including Defendants — under the COSMOS Marks.

35. On or about August 29, 2019, approximately one month after Vamsi had acquired the domain ***cosmossurfaces.com*** and after Vamsi already had placed that domain in use to advertise Services, Prasad caused Justh to acquire the domain ***cosmosurfaces.com***— identical to Vamsi's prior-acquired domain except omitting one "S" from the term. Defendants did not notify Vamsi of their actions or seek his consent, and Vamsi was not aware of what Defendants had done.

36. On August 28, 2019, Prasad caused Justh to file three additional federal trademark applications seeking to register COSMOS Marks, again without notice to Vamsi or any other interested party who had long used COSMOS Marks prior to the filing of these new applications. Defendants' new applications sought registration of the following Disputed Marks in connection with the Services:

    a. the word COSMOS;

    b. the words COSMOS SURFACES; and

    c. the words ATELIER BY COSMOS.

    Prasad signed each of these new applications in his capacity as manager of Defendant Justh. Each of these three applications remains pending at the time of filing this Complaint.

37. The application to register the word COSMOS was filed on the same basis as the original three applications. As part of the application, Justh was required to, and Defendants did, submit evidence of Justh's alleged use of COSMOS in commerce. To support Justh's alleged use of COSMOS, Defendants submitted what Defendants described as "catalog samples displaying prominent use of Applicant's mark in connection with the services offered thereunder."

38. The catalog submitted by Defendants in support of Justh's application to register COSMOS was a catalog that was posted on Vamsi's website ***cosmosgranite.com*** rather than on any website owned by either of Defendants, was a catalog that had been created by and under the direction of Vamsi rather than by either of Defendants, and was a catalog that did not belong to either of Defendants (although Defendants had been permitted by Vamsi to use the catalog to promote their Services) and that Defendants were not entitled to use for this purpose.

39. The other two applications — seeking to register COSMOS SURFACES and ATELIER BY COSMOS — were filed on the basis of Justh's alleged intent to use these marks in commerce, and its alleged exclusive right to do so.

40. On August 28, 2019 when Prasad caused Defendants to file these three most recent applications for registration of Disputed Marks, and continuing to date, Defendants knew that:

    a. All of the three Disputed Marks that Defendants were now seeking to register consisted entirely or most significantly of the word COSMOS;

b. Vamsi had conceived the use of the COSMOS name and brand;

c. Vamsi had first used COSMOS Marks in commerce in connection with the Services as set forth above, had used the specific mark COSMOS in commerce for Services since at least as early as 2005, and owned the domain ***cosmossurfaces.com*** and was using it in commerce for Services;

d. Vamsi, and not Defendants, was the first user in commerce for Services, and was the owner, of the mark COSMOS that was incorporated as a part of all three Disputed Marks for which Defendants sought registration;

g. Vamsi had priority over Defendants with respect to use in commerce of the COSMOS Marks for the Services;

h. Vamsi was entitled to continue using the COSMOS Marks, including COSMOS and the domain name ***cosmossurfaces.com***, in commerce for the Services; and

i. the "catalog samples" that Defendants submitted to show Justh's use of the applied-for mark COSMOS were not created by Defendants, and Defendants were not entitled to pass them off as Justh's own for trademark application purposes.

41. At no time has Vamsi transferred or assigned to Defendants any COSMOS Marks, in whole or in part, including but not limited to the Disputed Marks.

42. At no time has Vamsi consented to Defendants' registration of any COSMOS Marks, in whole or in part, including but not limited to the Disputed Marks.

43. When Prasad signed each of Justh's applications to register the Disputed Marks, he was required to confirm under penalty of perjury that the facts set out in the application were truthful.

44. When Prasad signed each of Justh's applications to register the Disputed Marks, he specifically represented to the Trademark Office under penalty of perjury that:

as to the use-based COSMOS application:

> [Prasad] believes that [Justh] is the owner of the trademark/service mark sought to be registered;

and as to all three of the applications:

> To the best of [Prasad's] knowledge and belief, the facts recited in the application are accurate.
>
> To the best of [Prasad's] knowledge and belief, no other persons ... have the right to use the mark in commerce, either in the identical form or in such near

resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

To the best of [Prasad's] knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

[Prasad], being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his … own knowledge are true and all statements made on information and belief are believed to be true.

True copies of the text of each of Justh's applications seeking registration of these Disputed Marks, each signed by Prasad under penalty of perjury, are attached hereto as **Exhibits 9 - 14.**

45. For the reasons set out above, each of these statements set out in Justh's applications, and made under penalty of perjury, was false and, at the time Prasad signed these statements under penalty of perjury as Justh's agent and manager, Prasad knew the statements were false. Defendants knew that Defendants' representations concerning the evidence of Justh's use were false, knew that Vamsi and not Defendants was the first user of the COSMOS Marks in commerce, knew that Justh was not the owner of the Disputed Marks, and knew that at the least, Vamsi had the right to use in commerce the Disputed Marks, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

46. Defendants made these false statements willfully and with the intent to deceive the Trademark Office, a United States agency, and/or with such reckless disregard of the truth, as to be the legal equivalent of such intent.

47. Defendants have not only sought to appropriate to themselves the exclusive right to control use of the Disputed Marks, but in closely related conduct have sought to cause confusion in the marketplace as to the origination of the COSMOS Marks and Services and the quality and reliability of the respective parties' Services and businesses. Among other things, Defendants have:

    a. purchased and placed in use a domain that is virtually identical to Vamsi's pre-existing **cosmossurfaces.com** domain: **cosmosurfaces.com;**

    b. posted on that **cosmosurfaces.com** domain a website with content that is virtually identical to the content posted on Vamsi's website **cosmosgranite.com,** as can be

seen in the example pages from each party's website that are attached hereto as **Exhibits 15 and 16;**

c. included as part of the copied content references to the business being founded in 2005 and having 15 locations, neither of which are accurate with respect to Defendants and Defendants' business, although both are accurate with respect to Vamsi and the businesses he has permitted to use the COSMOS Marks; and

d. published on that website a statement that Cosmos Granite & Marble has rebranded itself as Cosmos Surfaces, thereby suggesting that consumers should no longer access the website principally used by Vamsi and his permitted users, at **cosmosgranite.com**.

48. In 2019, a group including Vamsi and certain other members of Cosmos-affiliated entities formed IGM to purchase substantially all the assets of International Granite & Marble, Ltd., including its website, which now uses the COSMOS Marks. In an email directed to Vamsi's North Carolina counsel of record shortly before this lawsuit was filed, Prasad and Justh, through their North Carolina counsel of record, demanded that Vamsi and IGM cease using COSMOS Marks in North Carolina; and after the lawsuit was filed, Defendants made similar demands to Vamsi and other businesses with which Vamsi is affiliated as described in Paragraph 17 above

COUNT I
CANCELLATION OF REGISTRATIONS
(15 U.S.C. §§ 1051(a) and 1119)

49. The Trademark Act specifically provides that only an "owner of a trademark" may seek federal trademark registration. 15 U.S.C. § 1051(a)(1). Furthermore, submitting a trademark application requires the Applicant to verify that "he or she is the owner of the mark sought to be registered"; that the "facts recited in the application are accurate"; and that "no other person has the right to use such mark in commerce[.]" 15 U.S.C. § 1051(a)(3).

50. Furthermore, if and to the extent an Applicant is aware of "any concurrent use by others," the Trademark Act requires an Applicant to "specify" that concurrent use. 15 U.S.C. § 1051(a)(3)(D)(ii). Defendants/Applicant did not disclose Vamsi's long-term use of the COSMOS Marks or of the Disputed Marks that are the subject of this action, nor did they disclose any of the other uses discussed hereinabove although all of these uses were known to Defendants prior to the date of filing of each of Justh's applications, signed by Prasad, to register the Disputed Marks.

51. As detailed and more fully explained in the FACTS set out above and in the remaining paragraphs of this Complaint, Defendants made material false representations to the United States Trademark Office, a United States agency, in each of Justh's applications to register

Disputed Marks, at the time of filing each of those applications, all with the intent to procure a registration based upon such false representations, said false representations being, in short:

a. Defendants' wrongful allegations that Defendant Justh is the owner of the Disputed Marks;

b. Defendants' wrongful allegations that there is no "other person" having "the right to use the mark in commerce either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive;"

c. Defendants' wrongful submission of specimens purported to be Justh's own materials, when in fact they were screenshots of Vamsi's website and were copies of Vamsi's catalog pages; and

d. Defendants' wrongful failure to disclose the prior rights of Vamsi, and the licensed rights of others, to use the COSMOS Marks in commerce for the Services and their false representations that no such rights existed.

52. Defendants knew each of these representations was false at the time the representation was made, and knew they should not have concealed the information that they concealed.

53. Each of the false representations and concealments was made with the intent to deceive the Trademark Office, which is an agency of the United States, and/or with such reckless disregard of the truth, as to be the legal equivalent of such intent. Defendants deceived the Trademark Office with the intent of procuring a trademark registration for Defendant Justh, when otherwise Justh would not have been entitled to receive such a registration.

54. By use of their false representations and wrongful concealments having the effect of false representations, Defendants obtained the intended fruits of their deceptions. Defendants obtained approval of three of Justh's applications, which then matured into registrations, and in addition Defendants have recently obtained preliminary approval from the Trademark Office of two more applications (for COSMOS and for COSMOS SURFACES), although those applications still may be opposed by members of the public.

55. Because Defendants did not file the applications that ultimately matured into U.S. Trademark Registrations Nos. 5,803,910; 5,757,082; and 5,774,030 in the name of the true owner of the marks for which registration is sought, the applications did not comply with the requirements of Section 1(a) of the Trademark Act and, in particular, the requirements of 15 U.S.C. § 1051(a).

56. As a result, each of the applications was *void ab initio* and the registrations granted thereon should be cancelled pursuant to 15 USC §§ 1064 ("Cancellation of Registration") and 1119 ("Power of Court over Registration").

57. Defendants committed fraud on the Trademark Office, an agency of the United States, by willfully making the above-described material false representations and the above-described concealments having the effect of false representations, all with the intent to deceive the Trademark Office and thereby obtain approval of applications for registrations that Justh was not entitled to obtain.

58. Therefore, Vamsi asks that this Court enter an order directing the Commissioner of Trademarks to cancel the Disputed Marks or, in the alternative, transfer the same to him.

59. Vamsi also asks for any further relief, as this Court deems appropriate, pursuant to 15 USC § 1120 ("Civil liability for false or fraudulent registration") and/or 28 USC § 2202 ("Further Relief").

COUNT II
False Designation of Origin
15 U.S.C. § 1125(a)(1)(A)

60. Defendants are using the COSMOS Marks in commerce in connection with the goods and/or services they offer.

61. Defendant's use of the COSMOS Marks is likely to cause confusion, or to cause mistake, or to deceive the public as to the affiliation, connection, or association of Vamsi and Vamsi's businesses with Defendants.

62. In particular, Defendants' use of the Marks wrongfully suggests an affiliation, connection, or association of Defendants with Vamsi, which does not exist.

63. Defendants' use of the COSMOS Marks is likely to cause confusion, or to cause mistakes, or to deceive the public as to Vamsi's sponsorship or approval of Defendants' goods or services. In particular, Defendants' use of the COSMOS Marks wrongfully suggests that Vamsi sponsors or endorses Defendants' goods or services. Vamsi does not sponsor or endorse Defendants' goods or services.

64. Plaintiffs have been or are likely to be damaged by Defendants' wrongful use of the Marks.

COUNT III
Declaratory Judgment

65. An actual and justiciable controversy exists between the parties for at least the following reasons:

    a. Vamsi is the rightful owner of COSMOS Marks used in connection with the Services, and yet Defendants have secured federal trademark registrations for three Disputed Marks that are identical to COSMOS Marks, for use in connection with substantially identical Services, and are attempting to secure federal

trademark registrations for three additional Disputed Marks that are either identical to COSMOS Marks or confusingly similar to COSMOS Marks, again in connection with substantially identical Services. Defendants have thus taken from Vamsi trademark rights that rightfully belong to Vamsi, are attempting to take yet more such rights, and have removed and are attempting to remove Vamsi's right and ability to use and control use of the COSMOS Marks.

b. Vamsi desires to obtain his own federal trademark registrations, and the registrations obtained by Defendants are a barrier to his doing so. This is because the Trademark Act, 15 U.S.C. § 1051(d) provides that any mark that "[c]onsists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office… as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive" is not entitled to registration.

c. Vamsi licenses other owners, as well as his own businesses, to use COSMOS Marks. The issuance of registrations to Justh for many of Vamsi's COSMOS Marks casts in doubt the validity of those licenses, and the right of Vamsi to continue and expand his licensing of his own businesses and those of his licensees. But, Vamsi desires to continue expanding his business efforts, and to allow his licensees to do so, all under the COSMOS Marks. Before Vamsi proceeds to issue new licenses, and to expand the scope of his own businesses, he needs the security of a decision as to his rights to continue use of his COSMOS Marks, and as to whether he must curtail some or all of his national marketing and nationwide use of the registered marks on account of Justh's registrations and Defendants' activities asserting those registrations.

d. Vamsi, as rightful owner of the COSMOS Marks, and IGM, as one of the aforementioned licensees of the COSMOS Marks, have now been sent a demand letter from Defendants' North Carolina counsel of record demanding that Vamsi and IGM restrict reference to and use of the COSMOS Marks in North Carolina. This further heightens the uncertainty around Vamsi and IGM's current and prospective business operations and marketing. A decision as to their respective rights to continue to use the COSMOS Marks is critical.

66. Plaintiffs lack an adequate remedy at law for the damage caused by Defendants' fraudulently procured trademark registrations, wrongful pending trademark applications, and wrongfully secured domain name.

67. Therefore, Plaintiffs seeks from this Court a declaration setting out the rights of the parties with respect to the Disputed Marks and declaring:

a. that Vamsi is the rightful owner of the COSMOS Marks, and is entitled — to the exclusion of Defendants — to apply for and own registrations of those marks;

b. that Justh's Disputed Marks are identical or confusingly similar to the COSMOS Marks owned by Vamsi, and that neither of Defendants is entitled to register any of them;

c. that each of Justh's applications for registration of the Disputed Marks was fraudulent and failed to comply with the requirements of the Trademark Act;

d. that each of Justh's trademark registrations of Disputed Marks should be canceled on account of fraud and on account of failure to comply with the requirements of the Trademark Act;

e. that each of Justh's pending applications to register Disputed Marks is fraudulent, fails to comply with the requirements of the Trademark Act, and should be rejected; and

f. that IGM may continue to use the COSMOS Marks on its website as a licensee of Vamsi, the COSMOS Marks' rightful owner.

COUNT IV
UNFAIR AND DECEPTIVE TRADE PRACTICES
N.C. Gen. Stat § 75-1.1

68. Defendants' acts of securing fraudulent trademark registrations were in or affecting commerce in this State.

69. Defendants' acts of securing fraudulent trademark registrations were, by statute, unfair or deceptive acts or practices and/or unfair methods of competition, by:

a. Securing a property interest that Defendants knew did not belong exclusively to them;

b. Using a fraudulently secured property interest or trademark to demand, unlawfully and fraudulently, that others stop using the COSMOS Marks; and,

c. Seeking to suppress valid competition without justification.

70. Defendants' conduct of securing fraudulent trademark registrations and property interests has proximately caused and is causing actual injury to Plaintiffs.

71. Plaintiffs are therefore entitled to recover from Defendants their damages in an amount to be proven at trial.

72. Moreover, Defendants' actual damages should be trebled pursuant to N.C. Gen. Stat. § 75-16.

73. Moreover or alternatively, Defendants' commercial acts were willful, wanton, and egregious. Plaintiffs are therefore entitled to an award of punitive damages as determined by a jury.

COUNT V
CIVIL CONSPIRACY
BY PRASAD AND JUSTH

74. Defendant Prasad schemed and formed an agreement with Defendant Justh – expressed or implied – to do the unlawful acts described above for Prasad's own benefit and for the benefit of Justh.

75. These conspirators conspired not only to harm Plaintiff Vamsi and his licensees including IGM, but also to defraud the United States, including by presenting to a United States agency claims for benefits and property to which they were not entitled and making false statements to a United States agency in order to pursue their false claims, and committed the above-described acts in furtherance of their conspiracy.

76. The agreement between Defendants, and the acts in furtherance of their agreement, injured Plaintiffs and constitute civil conspiracy in violation of United States and North Carolina law.

77. Plaintiffs are therefore entitled to recover from Defendants their damages in an amount to be proved at trial.

78. Moreover, Defendants acted wantonly by conspiring with each other, and Plaintiffs are therefore entitled to an award of punitive damages as determined by a jury.

PRAYER

WHEREFORE, Plaintiffs respectfully demand trial by jury as to all issues so triable and pray that the Court enter judgment as follows:

A. Ordering the United States Patent and Trademark Office and the Commissioner of Trademarks to cancel all of Defendants' registrations of the Disputed Marks or, in the alternative, transfer the Marks to Vamsi, and to deny registration to Defendants of the pending applications to register Disputed Marks;

B. Enjoining Defendants' unlawful use and misappropriation of the COSMOS Marks, and its false statements concerning rebranding of Cosmos Granite & Marble;

C. Declaring that Vamsi is the rightful owner of the COSMOS Marks, and is entitled — to the exclusion of Defendants — to apply for and own registrations of those marks;

D. Declaring that Defendants' Disputed Marks are identical or confusingly similar to the COSMOS Marks owned by Vamsi, and that neither of Defendants is entitled to register Defendants' Disputed Marks;

E. Declaring that each of Defendants' applications for registration of the Disputed Marks were fraudulent and failed to comply with the requirements of the Trademark Act;

F. Declaring that each of Defendants' trademark registrations of Disputed Marks should be canceled on account of fraud and on account of failure to comply with the requirements of the Trademark Act;

G. Declaring that IGM may continue to rightfully use the COSMOS Marks on its website and elsewhere as a licensee of Vamsi;

H. Declaring that Defendants have no nationwide rights in the COSMOS Marks or in the Disputed Marks and that neither of Defendants is entitled to prohibit use of COSMOS Marks by Vamsi and Vamsi's licensees;

I. Requiring that Defendants transfer to Vamsi the domain name cosmosurfaces.com;

J. Ordering that Defendants and their respective agents, servants, employees, contractors and all persons, firms, corporations or entities acting under their direction, authority or control, and all persons acting in concert with any of them, be enjoined permanently from infringing the rights of Vamsi in the COSMOS Marks, and prohibiting each of them from all use of the COSMOS Marks and the Disputed Marks except as expressly hereafter consented by Vamsi;

K. Ordering that Defendants account for all their profits derived from violation of Vamsi's rights;

L. Awarding to Plaintiffs damages, both compensatory and exemplary (including trebled damages and punitive damages, as permitted by law), in amounts to be determined at trial in connection with the illegal and improper acts of Defendants;

M. Declaring this matter exceptional under the Lanham Act, 15 U.S.C. § 1117, and awarding to Plaintiffs their reasonable attorneys' fees;

N. Finding that Defendants' commercial harm is unfair and deceptive, and awarding attorney fees pursuant to N.C. Gen. Stat. § 75-1.16;

O. Taxing the costs of this action to Defendants and awarding interest on all awards as permitted by law; and

P. Ordering such other relief as the Court may deem just and proper.

Respectfully submitted this 10th day of March, 2021.

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CERTIFICATE OF SERVICE

Undersigned counsel for Plaintiff certifies that the foregoing document together with all exhibits thereto was served this date on Defendants, by electronically filing the same with the Clerk of Court using the CM/ECF System, which will send notification via electronic means to all counsel of record, each party being represented by at least one counsel of record who is a CM/ECF participant, on this 10th day of March, 2021.

s/ Susan Freya Olive
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EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Trademark Trial and Appeal Board
Opposition No. 91270862

Opposer Vamsi M. Nallapati, Plaintiff-Opposer vs Justh Holdings, LLC, Defendant-Applicant	**OPPOSER'S STATEMENT OF POSITION AS TO APPLICANT'S MOTION TO SUSPEND** **1. CONSENT TO SUSPENSION; AND** **2. NOTICE OF RELATED BOARD CASE MERITING CONSOLIDATION UPON RESUMPTION**

Attorney Reference: NAVM9001-d

Opposer confirms the existence of a currently pending lawsuit related to the present proceedings: Civil Action No. 5:20-cv-00047 (E.D.N.C.). Opposer further brings to the attention of the Board currently co-pending Proceeding No. 91255855 that is closely related hereto as set out in the ESTTA Cover Sheet for the Notice of Opposition, and, in the opinion of Opposer, merits consolidation upon resumption of proceedings. Opposer provides the following statement as to its position on these two issues

***First*, as to suspension:**

Opposer confirms the existence of a currently pending lawsuit related to the present proceedings: Civil Action No. 5:20-cv-00047 (E.D.N.C.). Opposer further brings to the attention of the Board currently co-pending Proceeding No. 91255855 that is closely related hereto and, in the opinion of Opposer, merits consolidation upon resumption of proceedings. A copy of the currently operative complaint in the federal lawsuit was attached to the Notice of Opposition as Exhibit 1 and a copy of the corrected Report on Filing of Trademark Action entered by the Clerk of Court in the federal lawsuit, and transmitted to the Office was attached to the motion to suspend filed in Proceeding No. 92155855.

In the prior federal lawsuit, between the same parties as are involved in this trademark

proceeding, Opposer seeks cancellation of the three "COSMOS" registrations owned by Applicant: Registration Nos. 5,803910 (COSMOS GRANITE & MARBLE); 5,774,030 (COSMOS GRANITE & MARBLE and design); and 5,757,082 (VIVID COSMOS).

The outcome of the federal lawsuit, which was filed prior to institution of the instant proceedings, is likely to be dispositive of multiple issues in the proceeding. The pertinence of the registrations that are the subject of that lawsuit is evident from the pleadings in the federal lawsuit and those in the instant proceeding, as well as in the file of the presently opposed application, in which Applicant expressly relied on the alleged strength of its "family of COSMOS marks" as a basis for allowance. *See*, Applicant's Response to Office Action (2020-06-04) at 4 (sApplicant notes that the distinctive term "BY COSMOS" in Applicant's mark is in reference to Applicant's business (see https://cosmosurfaces.com/ and Applicant's family of "COSMOS" trademark applications and registrations.[2]" Given the strength of Applicant's "COSMOS" term, it seems wholly unlikely that any consumers would confuse the source of Applicant's services with the Cited Marks' goods, and vice-versa, based on the shared term "ATELIER."); and FN 2 of that same Response ("and its FN2: "[2] See COSMOS GRANITE & MARBLE (Reg. No. 5,803,910), COSMOS GRANITE & MARBLE design (Reg. No. 5,774,030), VIVID COSMOS (Reg. No. 5,757,082)- attached hereto as Exhibit A."). *Id.*

Suspension thus appears both proper, advisable, and consistent with the Board's practice in such matters. *See,* TBMP 501.02(a).

WHEREFORE, Opposer agrees that an order of suspension be should be entered herein.

***Second*, as to consolidation:**

Opposer gives notice that this case is a "related Board case" that in the opinion of Opposer should be consolidated with Proceeding No. 91255855 upon resumption of proceedings, pursuant to the Board's notice in that case that, "upon resumption, if appropriate, the Board may

consolidate related Board cases."

In particular, the underlying facts of this case are identical to those of Proceeding 91255855 with respect to the origin of rights in the COSMOS mark underlying all of the applications at issue in that proceeding and the current proceeding. Further, the application at issue in the present case is a direct subject of Paragraphs 19, 20, 23 – 29 and of the "closely related conduct" described in Paragraph 30 of Proceeding No. 91255855, just as Applicant's wrongful conduct relating to the marks at issue in Proceeding No. 91255855 is pertinent to, and described in, Paragraphs 18-27 and, as to "closely related conduct," in Paragraph 28. The COSMOS marks that are the subject of the two proceedings each claim rights derived from the same COSMOS marks being litigated in presently pending Civil Action No. 5:20-cv-00047 (E.D.N.C.), which gives rise to the current consented motion for suspension of this proceeding. Likewise, the facts set out in Applicant's application, as noted above, confirming the application's dependence on the same registrations as those on which the prior-opposed applicatoins depend, are persuasive of the related nature of the cases and the proceedings.

CONCLUSION

WHEREFORE, Opposer consents to Applicant's request that suspension be entered; and Opposer further respectfully suggests that upon resumption of proceedings, this case be consolidated with related proceeding 91255855.

Respectfully submitted this 24th day of August, 2021.

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