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

Proceeding no.	91274942
Party	Plaintiff Mast-Jaegermeister US, Inc.
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Submission	Motion to Suspend for Civil Action
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Mast-Jaegermeister US, Inc.) **Opp. No.: 91274942**
)
Opposer,)
)
v.)
)
Alfwear Inc.,)
)
Applicant.)
_____)

MAST-JAEGERMEISTER US, INC.’S MOTION TO SUSPEND

Opposer Mast-Jaegermeister US, Inc. (“Jaegermeister” or “Petitioner”) moves for a suspension of the above-listed opposition proceeding pursuant to Trademark Rule of Practice 2.117(a). See 37 C.F.R. § 2.117(a).

Opposer respectfully moves that this proceeding be suspended immediately with respect to all matters not germane to this motion to suspend because the parties have not engaged in substantive discovery or served discovery requests, which will be due by October 14, 2022 (discovery closes on November 14, 2022) at the latest. In addition, the deadline for expert disclosures is currently set for October 15, 2022.

Opposer also moves that the time within which such discovery requests must be served should be extended until at least thirty-one (31) days after the decision of the Board on the motion to suspend, and that all other dates be extended accordingly.

The parties to this proceeding are involved in civil actions concerning the validity of Applicant's trademarks on the German word "kühl" and whether Opposer has violated any trademark rights asserted by Applicant. These pending civil actions include: (1) *Alfwear, Inc. v. Mast-Jaegermeister US, Inc.*, Case No. 2:17-CV-00936-TC-DBP, pending in the District Court of Utah (the "Utah Action"), which is the underlying case in two active and ongoing appeals in the Tenth Circuit Court of Appeals: (a) Case No. 21-4029, in which Applicant appeals the Utah District Court's entry of judgment in favor of Opposer on all of Applicant's claims following the District Court's granting of Opposer's motion for summary judgment; and (b) Case No. 22-4020, in which Opposer appeals the District Court's denial of Opposer's motion for prevailing party attorney's fees and costs; and (2) *Mast-Jaegermeister US, Inc. v. Alfwear, Inc.*, Case No. 7:20-CV-00591-VB, which is currently pending in the U.S. District Court for the Southern District of New York (the "New York Action"), involving the issues of whether Applicant's trademark registrations are valid and whether Opposer has violated any trademark rights asserted by Applicant. The New York Action is currently stayed pending the outcome of the Utah Action.

The issues in the foregoing civil actions are likewise raised by the above-listed Opposition, and the Utah Action and the New York Action may be dispositive of this proceeding.

Therefore, Petitioner respectfully requests that the Board suspend this Opposition pending final determination of the Utah Action and the New York Action and notes that the Board, in parallel proceedings, Nos. 91256015 (parent case), 92070074, 92071897, 92071907, 92071953, and 92075170 granted a suspension pending final determination of the civil actions (TTABVue #22.) Lastly, Opposer notes that it is filing a motion to suspend in the parallel Opposition, No. 91275159, pertaining to Applicant's U.S. Ser. No. 90815519 for the alleged mark KÜHL MOUNTAIN MULE.

MAST-JAEGERMEISTER US, INC.

Date: September 22, 2022

By: /Katrin Lewertoff/

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Certificate of Service

I hereby certify that a true and complete copy of the foregoing Motion to Suspend has been served on counsel for Applicant by forwarding said copy on September 22, 2022, via email to: trent@bakerip.com, admin@bakerip.com, bowen@rqn.com, arichards@rqn.com, kpickering@rqn.com.

Signature: /Katrin Lewertoff/

Date: September 22, 2022