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

Proceeding no.	91288868
Party	Defendant Adi Ben-Shahar
Correspondence address	ADI BEN-SHAHAR 1920 VIOLET ST. #201 LOS ANGELES, CA 90021 UNITED STATES Primary email: adi@claraoptics.com No phone number provided
Submission	Opposition/Response to Motion
Filer's name	Adi Ben-Shahar
Filer's email	adi@claraoptics.com
Signature	/Adi Ben-Shahar/
Date	07/13/2024
Attachments	ttabvue-91288868-OPP-17.pdf(247178 bytes)

July 13, 2024

To The United States Patent and Trademark Office
The Trademark Trial and Appeal Board

Dear Board,

Although Opposer was notified of our PERMETORY CHALLENGE & OBJECTION TO SUSPENSION OF MOTION SUBMISSIONS via email the day it was submitted, and has by their own admission seen, and then promptly responded to it, we hereby *resubmit* same verbatim, along with the Certificate of Service.

In their response, Opposer argued that ‘Applicant filed the Motion without prior notice to (opposer)’. On Wednesday July 10th Opposer themselves filed the response with the Board without prior notice. In their email they clearly state that they are notifying defense *after* motion was already filed - ‘...that was filed..’, (underline added for emphasis) as can be seen in their email:

We attach a service copy of Opposer’s Response to Applicant’s “Permetory Challenge & Objection to Suspension of Motion Submissions” that was filed with the TTAB today.

Best regards,

Larry L. White | *Litigation Case Manager*

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Further, in filing the Peremptory Challenge (error in spelling acknowledged), the defense stated belief of partiality with the understanding that the request, as stated, will be sufficient for the Board to cordially and carefully considered it.

Should the Board wish the defense to elaborate in this matter, either outside of these proceedings to maintain privacy, or inside of them if procedurally mandated, the defense will comply.

Since Opposition is openly sharing with the Board direct communication between them and Defense, Defense requests the Board to clarify whether all settlement negotiation proceedings shall remain confidential or not, especially given an Interlocutory Attorney is involved.

Thank you for your understanding and consideration in this matter.

/Sig/Adi Ben-Shahar/
Adi Ben-Shahar
Applicant and Defendant
adi@claraoptics.com

Opposition No. 91288868

Retail Royalty Company

v.

Adi Ben-Shahar

July 5, 2024

**PERMETORY CHALLENGE &
OBJECTION TO SUSPENSION OF MOTION SUBMISSIONS**

Adi Ben-Shahar, Pro Se Defendant:

PERMETORY CHALLENGE: Based on belief of prejudice, the defense believes that it will not receive impartial treatment in these proceedings, and therefore I hereby request that the Interlocutory Attorney assigned to this case, Mr. Jacob Vigil be replaced.

In this regard, defense requests the Board's consideration is assigning an individual who is familiar with and has experience in working with individuals who elect to represent themselves, one who provides unequivocal equal and impartial treatment to all parties, regardless of whether they are represented Pro SE, or by attorneys seasoned in these matters.

OBJECTION TO SUSPENSION: Defense objects to the suspension placed on the case pending completion of discovery conference, because the suspension language

includes ‘any papers filed’ which, as written, would include the suspension of motions, which, if filed, ‘will be given no consideration’.

Trademark Rule 2.127(d) reads as follows

(d) When any party timely files a potentially dispositive motion, including, but not limited to, a motion to dismiss, a motion for judgment on the pleadings, or a motion for summary judgment, the case is suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper which is not germane to the motion except as otherwise may be specified in a Board order. If the case is not disposed of as a result of the motion, proceedings will be resumed pursuant to an order of the Board when the motion is decided.

Contrary to Interlocutory Attorney’s assertion that Trademark Rule 2.127(d) mandates the suspension of ‘any papers’ which will include *motions* pending discovery conference *proceeding*, our interpretation of the rule is the *opposite*: That the intent of the rule is to suspend *proceedings* following a *motion*, until such time as the motion is fully addressed, and only then ‘*proceedings will be resumed pursuant to an order of the Board when the motion is decided*’. In fact, it is our understanding that a motion may significantly impact the type, content or even the merit of proceedings altogether, including discovery, and therefore disallowing filing of motions over a proceeding appears to not align with the Boards intent. If for example, a party files a motion to dismiss, or for a summary judgement which is accepted by the board, it will clearly impact discovery proceedings, or even render them unnecessary.

We therefore respectfully ask the board to:

1. Assign an impartial Interlocutory Attorney.
2. Lift or amend the suspension placed in the order dated July 3, 2024 and allow the filing of motions.
3. Suspend Interlocutory Attorney's required 7 DAYS contact by telephone until this request is finalized.

Respectfully submitted,

/Sig/Adi Ben-Shahar/

Adi Ben-Shahar

Defendant Pro Se.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PERMETORY CHALLENGE & OBJECTION TO SUSPENSION OF MOTION SUBMISSIONS** has been served on the Opposer's counsel of record on July 13, 2024 via electronic mail to:

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Signature: /Adi Ben-Shahar/

Name: Adi Ben-Shahar

Date: July 12, 2024