

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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GMM

Mailed: August 22, 2015

Cancellation No. 92054580

BIC Corporation, BIC USA Inc. and Norwood
Promotional Products, LLC

v.

MarketQuest Group Inc.

David Mermelstein, Administrative Trademark Judge:

This case comes before the Board for consideration of Petitioner's May 11, 2015, request to resume proceedings and Respondent's June 12, 2015, motion to suspend pending disposition of the civil action between the parties. Respondent's unconsented motion to suspend has been fully briefed.

In its May 11, 2015, request to resume proceedings, Petitioner notified the Board that the United States District Court for the Southern District of California has issued a final decision in the civil case that occasioned the suspension of this proceeding.

In its June 12, 2015, motion to suspend, Respondent informed the Board that it has appealed the District Court's ruling to the United States Court of Appeals for the Ninth Circuit. Petitioner, in its response to the motion to suspend, asserts that the only issue on appeal is whether the District Court correctly decided that

Petitioner's offending uses constituted fair use, and therefore the appeal will not decide whether Respondent's subject registration is valid. Petitioner concedes, however, that it is possible (if unlikely, in Petitioner's estimation) that the Court of Appeals could reverse the ruling of the District Court.

In view of the pending appeal in the civil litigation, proceedings will remain suspended pending final determination of the civil action. *See* Trademark Rule 2.117(a).

Within twenty days after such final determination, the parties shall notify the Board so that this proceeding may be called up for appropriate action. Such notification to the Board should include a copy of any final order or final judgment which issued in the civil action.

During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.