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Filing date: **12/05/2018**

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

Proceeding	92054580
Party	Defendant MarketQuest Group Inc.
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Submission	Motion to Suspend for Civil Action
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Signature	/KMH/
Date	12/05/2018
Attachments	MotSuspDisp_530.311US_5Dec2018.pdf(256662 bytes)

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

BIC Corporation, BIC USA Inc. and)	
Norwood Promotions Products LLC,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92054580
)	
MarketQuest Group, Inc.,)	Subject Mark: THE WRITE CHOICE
)	
Registrant.)	

MOTION FOR SUSPENSION OF PROCEEDINGS

MarketQuest Group, Inc. (“Registrant”), by its attorney, hereby moves pursuant to Trademark Rule §2.117(a) for suspension of all proceedings pending final disposition of an open appeal initiated by MarketQuest Group, Inc. (“Registrant”) on May 18, 2015 challenging dismissal of its claims for trademark infringement under the Lanham Act and California unfair competition stemming from, among other things, Petitioner’s use of the subject mark, THE WRITE CHOICE.

Pursuant to Trademark Rule §2.117(a): “Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action or another Board proceeding which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action or the other Board proceeding.” A proceeding is terminated when a decision on the merits has been rendered and no appeal has been filed, or all appeals have been decided. See TBMP § 510.02.

As grounds for support of this motion, Registrant asserts that on July 7, 2017, the Ninth Circuit Court of Appeals ruled to reverse the Summary Judgment against Petitioners by the United States District Court, Southern District of California in civil case no. 11-cv-618. The civil case and appeal resulted in suspension of this cancellation proceeding and Registrant seeks to continue suspension of this in view of the trial in civil case no. 11-cv-618 having a trial date set for January 29, 2019. Since the civil case could be dispositive of this proceeding before the Board, Registrant respectfully requests suspension of the cancellation proceeding pending termination of the former.

A copy of the Revised Scheduling Oder dated November 27, 2018, issued by the United States District Court, Southern District of California, is attached hereto as Exhibit A.

Respectfully submitted,
Lewis Kohn & Fitzwilliam LLP

/dmk/

David M. Kohn

Dated this 5th day of December 2018

LEWIS KOHN & FITZWILLIAM LLP
10935 Vista Sorrento Parkway
Suite 370
San Diego, CA 92130
(858) 436-1330

CERTIFICATE OF SERVICE

This certifies that a copy of Registrant's "MOTION FOR SUSPENSION OF PROCEEDINGS" was served this 5th day of December 2018, by electronic mail to:

Richard Sybert
Gordon & Rees
101 West Broadway, Suite 2000
San Diego, CA 92101
rsybert@gordonrees.com

/dmk/
David M. Kohn

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARKETQUEST GROUP, INC.,
Plaintiff,
v.
BIC CORPORATION, et al.,
Defendants.

Case No.: 11-cv-00618-BAS-JLB

**ORDER: (1) GRANTING IN PART
JOINT MOTION TO AMEND
SCHEDULING ORDER, AND (2)
ISSUING SECOND REVISED
SCHEDULING ORDER
REGULATING PRE-TRIAL
PROCEEDINGS**

[ECF Nos. 410, 422]

On November 21, 2018, the parties filed a joint motion to amend the Revised Scheduling Order Regulating Pre-Trial Proceedings (ECF No. 422). For good cause shown, the Court **GRANTS in part and DENIES in part** the parties' joint motion, and the Revised Scheduling Order (ECF No. 410) is amended as follows:

1. Counsel shall refer to the Standing Order for Civil Cases for the Honorable Cynthia Bashant, which is accessible via the Court's website at www.casd.uscourts.gov.
2. The parties shall disclose deposition designations as required by Fed. R. Civ. P. 26(a)(3)(A)(ii) on or before **December 3, 2018**. The parties shall disclose counter-designations and objections on or before **December 14, 2018**. The parties shall lodge

1 depositions with indices, if requested by the Court, on or before **January 9, 2019**.

2 The deadline for the parties to comply with all other pretrial disclosure requirements
3 of Fed. R. Civ. P. 26(a)(3) was **November 2, 2018**. **Please be advised that failure to**
4 **comply with this section or any other discovery order of the Court may result in the**
5 **sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on the**
6 **introduction of experts or other designated matters in evidence.**

7 3. In jury trial cases before the Honorable Cynthia Bashant, neither party is
8 required to file Memoranda of Contentions of Fact and Law pursuant to Civil Local Rule
9 16.1.f.2.

10 4. The deadline for counsel to confer and take the action required by Local Rule
11 16.1.f.4.a was **November 9, 2018**.

12 5. The deadline for Plaintiff's counsel to provide opposing counsel with the
13 proposed pretrial order for review and approval and take any other action required by Local
14 Rule 16.1.f.6.a was **November 19, 2018**.

15 6. The deadline to lodge the proposed pretrial order in the form prescribed in
16 Local Rule 16.1.f.6 with the district judge's chambers was **November 26, 2018**.

17 7. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
18 **Cynthia Bashant** for Monday, **December 18, 2018** at **9:00 AM**. You-Fong C. Amato, co-
19 counsel for Defendants, may appear telephonically.

20 8. All motions *in limine* are due no later than **December 14, 2018**.

21 9. All responses to the motions *in limine* are due no later than
22 **December 21, 2018**.

23 10. The parties shall submit the following no later than **January 4, 2019**: (1) joint
24 proposed jury instructions; (2) proposed verdict form; (3) *voir dire* questions; and (4)
25 statement of the case.

26 11. The parties shall exchange final exhibit and witness lists no later than
27 **January 22, 2019**.

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1 12. A hearing for motions *in limine* is scheduled for Monday, **January 14, 2019**,
2 at **10:30 AM**.


3 13. The trial in this matter shall commence on Tuesday, **January 29, 2019**, at
4 **9:00 AM**.

5 14. The dates and times set forth herein will not be modified except for good
6 cause shown.

7 15. Plaintiff's counsel shall serve a copy of this order on all parties that enter this
8 case hereafter.

9 **IT IS SO ORDERED.**

10 Dated: November 27, 2018

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12 Hon. Jill L. Burkhardt
13 United States Magistrate Judge
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