

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

EJW

Mailed: October 19, 2017

Cancellation No. 92064261

Michael Spitzbarth

v.

John Groat dba Holly Shirt!

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

On June 27, 2017, Respondent filed a timely motion for reconsideration in connection with the Board's June 20, 2017 order denying the parties' cross-motions for summary judgment.

When a party timely files a potentially dispositive motion, such as Respondent's motion, the proceeding is suspended with respect to all matters not germane to the motion, and no party should file any paper which is not germane to the motion. *See* Trademark Rule 2.127(d).¹

Accordingly, as of the filing date of the motion, proceedings are SUSPENDED pending disposition of the motion. Any paper filed during the pendency of this motion which is not relevant thereto will be given no consideration. *See* Trademark Rule 2.127(d). TBMP § 510.03(a). In view

¹ The case is considered *automatically suspended* by operation of 37 C.F.R. § 2.127(d) with respect to all matters not germane to the motion. TBMP § 510.03(a) (June 2017).

thereof, Respondent's motions to suspend (filed June 27, 2017 and October 16, 2017) pending the Board's consideration of its motion for reconsideration are moot. Additionally, Petitioner's motion to compel was improperly filed and will not be given any consideration.²

This suspension order tolls the time for the parties to respond to any outstanding discovery requests, and tolls the time to make required disclosures. TBMP § 528.03.

The motion for reconsideration will be decided in due course.

☼☼☼

² However, the Board notes that Respondent did not respond to the motion to compel on its merits because of the suspension of the proceeding under Trademark Rule 2.127(d). In view thereof, for judicial efficiency, rather than requiring Petitioner to refile its motion to compel, Respondent will be allowed time to respond thereto when the Board considers Respondent's motion for reconsideration.