

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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November 16, 2018

Cancellation No. 92068025

AERB, Inc.

v.

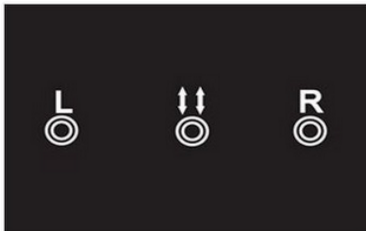
Schenzhen Riitek Technology Co., Ltd.

Christen M. English, Interlocutory Attorney:

This case now comes up on Respondent's motion, filed August 15, 2018, to suspend proceedings pending disposition of a civil action between the parties: *Shenzhen Riitek Technology Co., Ltd., et al. v. AERB, Inc., et al.*, Case No. 8:18-cv-00645-JLS-JDE, pending in the United States District Court for the Central District of California. The motion is full briefed.

The Board has carefully considered all of the parties' arguments, but does not recount the arguments here.

Respondent owns Registration No. 5372844 for the mark



for "computer peripherals; keyboards; wireless computer peripherals" ("Respondent's Registration"). As grounds for cancellation, Petitioner

alleges claims of functionality and fraud. 1 TTABVUE. Petitioner has pleaded as counterclaims in the Federal Case the exact same grounds to cancel Respondent's Registration. 8 TTABVUE 17-21.

The Board's well-settled policy is to suspend proceedings when one or both parties are involved in a civil action that may have a bearing on the Board case. Trademark Rule 2.117(a); *See, e.g., New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011). The Federal Case involves the exact same claims presented in the Board proceeding, and therefore, proceeding here prior to termination of the Federal Case would be inefficient and pose a risk of inconsistent judgments. Accordingly, Respondent's motion to suspend is **granted** and proceedings are **suspended** pending **final** disposition¹ of the Federal Case.

Within **twenty days** after the final determination of the Federal Case, the parties shall so notify the Board, including a copy of the court's final order, and call this case up for any appropriate action.²

¹ A proceeding is considered to have been finally determined when an order or ruling that ends litigation has been rendered, and no appeal has been filed, or all appeals filed have been decided and the time for any further review has expired. *See* TBMP § 510.02(b) (2018).

² During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.