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Filing date: **02/11/2015**

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

Proceeding	91214355
Party	Plaintiff 3M Company
Correspondence Address	Wendy C. Larson Pirkey Barber PLLC 600 Congress Ave., Suite 2120 Austin, TX 78701 UNITED STATES bbarber@pirkeybarber.com, wlarson@pirkeybarber.com, eolson@pirkeybarber.com, tmcentral@pirkeybarber.com, trade- marks@mmm.com
Submission	Motion to Suspend for Civil Action
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Date	02/11/2015
Attachments	Mtn to Suspend.pdf(438024 bytes)

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

3M Company,	§	
	§	
Opposer,	§	
	§	
v.	§	Opposition No. 91214355
	§	
3m's Automotive,	§	
	§	
Applicant.	§	

OPPOSER'S MOTION TO SUSPEND

Pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510, Opposer moves to suspend this opposition proceeding. Opposer has filed a complaint against Applicant in the United States District Court for the Middle District of Florida (the "Court") in the civil action styled *3M Company v. 3M'S AUTOMOTIVE, INC.*, Civil Action No. 8:15-cv-293-T-36TGW (the "Civil Action"), which may have a bearing on this proceeding. A copy of Opposer's Complaint, without exhibits (the "Complaint"), is attached hereto as Exhibit A.

As can be seen from the Complaint, the parties in this opposition proceeding are the same as those in the Civil Action, and the central issue in both cases is whether Applicant's use of the mark 3M'S AUTOMOTIVE INC. is likely to cause confusion with or dilution of Opposer's famous mark 3M.

Suspension of this proceeding is clearly appropriate under these circumstances. As stated in TBMP § 510.02(a), "Ordinarily, the Board will suspend proceedings in the case before it if the final determination of the other proceeding will have a bearing on the issues before the Board." This is because, "[t]o the extent that a civil action in a federal district court involves issues in common with those in a proceeding before the Board, the decision of the federal district court is binding upon the Board, while the decision of the Board is not binding upon the court." *Id.*

Here, there is no question that the Civil Action will have a bearing on the issues in this opposition proceeding, and my indeed be dispositive of this proceeding.

For these reasons, this proceeding should be suspended pending termination of the Civil Action.

CONCLUSION

Because there is a civil action pending between these parties that is potentially dispositive of (or at the very least will have a bearing on) this consolidated opposition, the proceeding should be suspended until termination of the Civil Action.

Respectfully submitted,

Date: February 11, 2015

/William G. Barber/
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ATTORNEYS FOR OPPOSER

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing OPPOSER'S MOTION TO SUSPEND was served by first class mail on February 11, 2015 on the Applicant at the address listed below:

Miguel Gonzalez
3m's Automotive
2023 Del Prado Blvd. South, Suite B
Cape Coral, FL 33990

/William G. Barber/

EXHIBIT A

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