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

Proceeding	92052834
Party	Defendant Insubuy, Inc.
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Submission	Motion to Suspend for Civil Action
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Date	08/27/2010
Attachments	Binder1.pdf (64 pages)(3534353 bytes)

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

IN THE MATTER OF TRADEMARK REGISTRATION No. 3,339,155

TRADEMARK: INSUBUY

REGISTERED: November 11, 2007

Community Insurance Agency, Inc.

Petitioner,

v

Insubuy, Inc.

Registrant.

Cancellation No.
92052834

**MOTION TO SUSPEND PROCEEDINGS PENDING
FINAL RESOLUTION OF PENDING FEDERAL COURT LITIGATION**

Registrant, Insubuy, Inc., ("Registrant") respectfully submits this motion to suspend these proceedings pending resolution of Civil Action 1:10-cv-03925 now pending in the United States District Court for the Northern District of Illinois (the "Civil Action"). The motion should be granted because the Civil Action is potentially dispositive of the registrability issues before the Board.

FACTS

This cancellation action commenced on July 29, 2010, when Petitioner, Community Insurance Agency, Inc. ("Petitioner") filed its Petition for Cancellation of Registration No. 3,339,155. At the time Petitioner filed the cancellation petition, it already had been served with the complaint in the Civil Action charging Petitioner of

infringement of Registrant's trademarks, including the INSUBUY mark which is the subject of Registration No. 3,339,155. See Exhibit A, a copy of the filed complaint without exhibits. On August 19, 2010, Petitioner filed its Answer in the Civil Action, asserting as a defense that Registrant's trademarks, including Registration No. 3,339,155, are generic, descriptive and/or not distinctive. See Exhibit B, a copy of the filed answer without exhibits, at 18. Petitioner also filed a counterclaim against Registrant alleging that Registrant fraudulently obtained Registration No. 3,339,155. *Id.* at 35. Both of these grounds encompass the grounds found in the Petition to Cancel. Finally, Petitioner requested that the district court declare that Registration No. 3,339,155 shall be cancelled and removed from the Principal Register. *Id.* at 39.

At this time, excepting the underlying Petition to Cancel, no papers have been filed at the Trademark Trial and Appeal Board.

ARGUMENT

This Board may suspend proceedings when it becomes aware of other relevant pending litigation. Trademark Rule 2.117 provides:

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 . . . which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action. . .

The Counterclaim and Defenses as filed by Petitioner seeks to resolve issues of the validity of US Reg. No. 3,339,155 inasmuch as Petitioner claims that US Reg. No. 3,339,155 was either fraudulently obtained and/or is invalid as descriptive of the services listed therein. Should Petitioner be successful in the Counterclaim filed in the Civil Action, the District Court has been asked to cancel the US Reg. No. 3,339,155.

Thus, the Civil Action not only bears on the present proceeding, but has the potential to dispose altogether of any need to continue this cancellation proceeding. Suspending this proceeding will conserve the resources of this Board and the parties by avoiding potentially unnecessary administrative litigation while a controlling civil action is pending.

CONCLUSION

For the foregoing reasons, Registrant respectfully requests that this Board enter an Order suspending this proceeding until the parties notify the Board of the final resolution of the pending Civil Action.

Dated: August 26, 2010

Respectfully submitted,

By: /s/Fritz L. Schweitzer, III

Fritz L. Schweitzer, III

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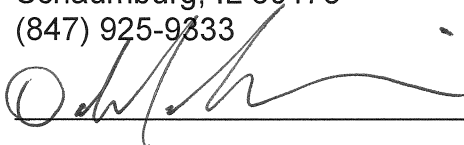
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Attorneys for Registrant

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing MOTION TO
SUSPEND PROCEEDINGS PENDING FINAL RESOLUTION OF PENDING FEDERAL
COURT LITIGATION to be served by first-class, postage prepaid, this 26th day of
August 2010, on:

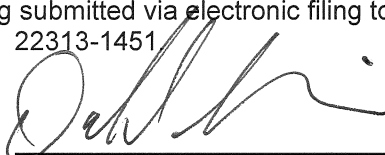
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Certificate of Mailing:

I hereby certify that this document is today being submitted via electronic filing to: TTAB, Commissioner
for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451

Dated: August 26, 2010



Debbi Simms

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