

02-28-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #30

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TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
(Our Case No. 52-8893-00-1)

TEK-NEK TOYS INTERNATIONAL, INC.)
)
Opposer,)
)
v.)
)
VOLKSWAGEN AKTIENGESELLSCHAFT,)
)
Applicant.)

Opposition No. 91154110
[Serial No. 76/207,608]

REQUEST FOR SUSPENSION OF ACTION IN THE
PATENT AND TRADEMARK OFFICE

Opposer, by its attorneys, hereby request that this proceeding be suspended pursuant to Trademark Rule 2.67, 37 C.F.R. § 2.67.

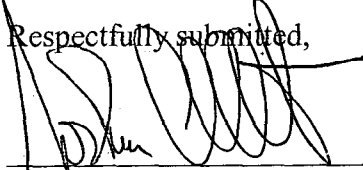
The grounds for this request are as follows: On October 13, 2002, a civil action was filed by Volkswagen Aktiengesellschaft and Volkswagen of America, Inc. (hereinafter "Applicant") against Tek-Nek Toys International, Inc. in the United States District Court, Southern District of Indiana, Civil Action No. 1:02-CV-1572JDT. A copy of the Complaint filed in this case is submitted herewith as Exhibit A.

The determination of this pending action may affect Applicant's right to register the above-referenced trademark.

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Opposer therefore requests that this proceeding be suspended pending determination of the above-referenced civil action.

Respectfully submitted,

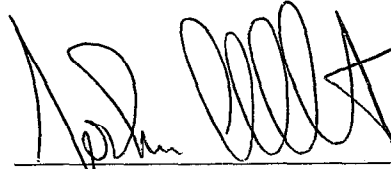


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CERTIFICATE OF SERVICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX TTAB, Asst. Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on this 25 day of February, 2003.



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FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

VOLKSWAGEN AKTIENGESELLSCHAFT
and VOLKSWAGEN OF AMERICA, INC

Plaintiffs,

vs.

TEK-NEK TOYS INTERNATIONAL, INC.,

Defendant.

CIVIL CASE NO _____

1:02-CV-1572 JDT

**COMPLAINT FOR DECLARATORY JUDGEMENT, PRELIMINARY
AND PERMANENT INJUNCTION AND DAMAGES**

For its Complaint against Tek-Nek Toys International, Inc. ("Defendant"), Volkswagen Aktiengesellschaft ("VWAG") and Volkswagen of America, Inc ("VWoA) hereby allege as follows:

INTRODUCTION

This is an action for injunctive and other relief arising out of Defendants violation of the Lanham Act, 15 U.S.C. § 1114(a), 15 U.S.C. § 1125(a) and 15 U.S.C. § 1125(c), as well as Defendant's common law trademark infringement, acts of deception, unfair competition and conversion. Plaintiff VWAG, as holder of all "Volkswagen" related federally registered trademarks (as defined below as the "VW Trademarks") as well as certain trademarks at law by prior first use, and VWoA, as its licensee, seek relief, including relief to enjoin Defendant's wrongful use of the VW Trademarks in connection with similar goods and services.

PARTIES AND JURISDICTION

1. VWAG is an Aktiengesellschaft organized and existing under the laws of Germany, with its principal place of business in Wolfsburg, Germany.
2. VWoA is a corporation organized and existing under the laws of the State of New

Jersey, with its principal place of business in Auburn Hills, Michigan.

3. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of Illinois with its principal place of business in Illinois. Defendant may be served through its registered agent, Jack Horchler, 19244 S. Blackhawk Parkway, Mokena, Illinois 60448.

4. This civil action arises, in part, under the Lanham Act, 15 U.S.C. §§ 1501 *et seq.* Accordingly, the Court has original jurisdiction of the subject matter of the action pursuant to 28 U.S.C. §§ 1331, 1338(a) and (b), 15 U.S.C. § 1121(a).

5. Venue properly lies in this Court under 28 U.S.C. § 1391(b) and (c) because a substantial part of the events giving rise to the claims alleged herein arose in this District.

GENERAL ALLEGATIONS

6. VWAG and VWoA incorporate herein by reference the allegations of Paragraphs 1-5 of this Complaint.

7. The words Volkswagen "Beetle," the abbreviation "VW," the form of the "old" or "Classic" Volkswagen Beetle motor vehicle, and the graphic design of the encircled "VW" logo are all federally registered trademarks of VWAG. Furthermore, VWAG has common law trademark rights and pending federal trademark applications for the word "Bug," and the form of the "Classic" Volkswagen Beetle automobile which are protected under the Lanham Act. The foregoing Volkswagen trademarks are collectively referred to herein as the "VW Trademarks" and the products bearing the VW Trademarks are referred to collectively herein as the "VW Products."

8. VWAG owns one hundred percent (100%) of the stock of VWoA.

9. The United States Patent and Trademark Office issued certificates of registration

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