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Filing date: **08/22/2005**

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

Proceeding	91162896
Party	Plaintiff Wet Willie's, Inc. ,
Correspondence Address	ROBERT L. LEE ALSTON & BIRD, LLP 1201 W. PEACHTREE STREET ATLANTA, GA 30309-3424 BLee@alston.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Robert L. Lee
Filer's e-mail	rlee@alston.com, blee@alston.com
Signature	/Robert L. Lee/
Date	08/22/2005
Attachments	WetWilliesMotiontoSuspend.pdf (3 pages) WetWilliesComplaint.pdf (18 pages)

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

In the matter of U.S. Application Serial No. 78/259,969
Mark: WET WILLY’S
Filing Date: June 9, 2003

WET WILLIE’S, INC.,

Opposer,

v.

IMPACT DISTRIBUTION,

Applicant.

Opposition No. 91162896

OPPOSER’S MOTION TO SUSPEND FOR CIVIL ACTION

Pursuant to 37 C.F.R. § 2.117, Opposer Wet Willie’s, Inc. (“Opposer”) hereby files its Motion to Suspend for Civil Action, and shows the Board as follows:

On August 18, 2005, Opposer’s affiliated entities, Wet Willie’s Management Corp. and South Beach Wet Willie’s, Inc., filed a civil action against Applicant for trademark infringement, dilution, and unfair competition in the United States District Court for the Southern District of Florida, Miami Division (Case No. 05-CV-22300). A copy of the complaint is attached hereto. Opposer submits that the Federal Court Complaint has a direct bearing on this proceeding, as Opposer and its affiliated entities seek damages and injunctive arising from Applicant’s use of the mark WET WILLY’S – the mark at issue in this proceeding. Opposer and its affiliated entities also seek an order from the Federal Court requiring Applicant to abandon its application which is the subject of this proceeding, as well as another pending application for its WET WILLY’S mark. Since there are no dispositive motions pending this proceeding, Opposer submits that its Motion to Suspend for Civil Action should be granted.

Respectfully submitted, this 22nd day of August, 2005.

/s/ Robert L. Lee

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WET WILLIE'S, INC.

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing **OPPOSER'S MOTION TO SUSPEND FOR CIVIL ACTION** was served by first class mail, postage prepaid, upon counsel for Applicant, addressed as follows:

Christopher J. Palermo
HICKMAN PALERMO TRUONG & BECKER LLP
2055 Gateway Place Suite 550
San Jose, California 95110-1089

Dated: August 22nd, 2005.

/s/ Robert L. Lee _____
ROBERT L. LEE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

NIGHT BOX
FILED

AUG 18 2005

WET WILLIE'S MANAGEMENT
CORP., and SOUTH BEACH WET
WILLIE'S, INC.,

Plaintiffs,

v.

IMPACT DISTRIBUTION, INC., a/k/a
IMPACT BEVERAGE CO.,

Defendant.

CIVIL COOKE

05-22300

Civil Action File No.

CLARENCE MADDOX
CLERK, USDC / SDFL / MIA
MAGISTRATE JUDGE
BROWN

JURY TRIAL DEMANDED

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiffs Wet Willie's Management Corp. and South Beach Wet Willie's, Inc. (collectively "Wet Willie's" or "Plaintiff") file this Complaint for Injunctive Relief and Damages against Defendant Impact Distribution, Inc., a/k/a Impact Beverage Co. ("Impact" or "Defendant"), and in support allege as follows:

NATURE AND BASIS OF ACTION

1. This is an action for trademark and service mark infringement in violation of the Federal Lanham Act, 15 U.S.C. § 1114(1), and the common law of the State of Florida; unfair competition in violation of the Federal Lanham Act, 15 U.S.C. § 1125(a)(1)(A); trademark dilution in violation of the Federal Lanham Act,

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