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Filing date: **02/17/2006**

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

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| Proceeding | 91168716 |
| Party | Defendant Key-Trak, Inc. Key-Trak, Inc. 6700 Hollister Houston, TX 77040 |
| Correspondence Address | MARK A. TIDWELL JACKSON WALKER L.L.P. 112 E.PECAN, SUITE 2100 SAN ANTONIO, TX 78205 |
| Submission | Motion to Suspend for Civil Action |
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| Signature | /Mark A. Tidwell/ |
| Date | 02/17/2006 |
| Attachments | Motion to Suspend.pdf (31 pages) |

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

Key Systems, Inc.
Opposer

vs.

Key-Trak, Inc.,
Applicant

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Opposition No. 91168716

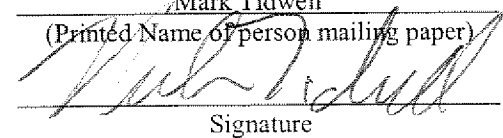
Serial No. 78413635

COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3514

I hereby certify that this Motion to Suspend Proceedings was filed through the Electronic System for Trials and Appeals (ESTTA) of the Trademark Trial and Appeal Board on the 17 day of February 2006

Mark Tidwell

(Printed Name of person mailing paper)



Signature

APPLICANT'S MOTION TO SUSPEND PROCEEDINGS

Pursuant to 37 C.F.R. §2.117, Key-Trak, Inc., Applicant, moves to suspend the opposition pending between it and the Opposer Key Systems, Inc.

More than a year and a half ago, on June 9, 2004 Applicant filed a lawsuit against Opposer that, when finally adjudicated or settled, will fully resolve all matters at issue in the opposition. That lawsuit, *Key Trak, Inc. v. Key Systems, Inc.* Civil Action No. H-04-2234 (S.D. Tex) (the "Action"), is currently pending in the United States District Court for the Southern District of Texas. The Action includes (i) Applicant's claims of ownership of the mark KeyKeeper (the "Mark") for the goods set forth in the publication, (ii) Applicant's claim that Opposer has infringed Applicant's exclusive right in the Mark, and (iii) Opposer's defenses to such allegations. As such the Action encompasses the issues raised in the opposition.

Applicant is the owner of the Mark. Applicant acquired ownership of the Mark from the original owner, Endurance Electronics Pty. Ltd. (“Endurance”). Opposer was a North American distributor for Endurance.

As part of its defense in the Action, Opposer has asserted a counterclaim seeking among other things a declaratory judgment that it is the first user in U.S. commerce of the Mark and that it is the owner of the Mark. Opposer also contends that Applicant was fraudulent in its application for registration of the Mark in regards to ownership. These are the same claims which Opposer is making in the instant opposition. Opposer’s claims in the instant opposition are incorporated within the claims raised by the Applicant in the Action and by the counterclaims raised by the Opposer.

Copies of the Second Amended Complaint and Counterclaim (Exhibit A), and Defendant Key Systems Inc.’s Answer, Affirmative Defenses and Counterclaim to Plaintiff’s Second Amended Complaint (Exhibit B) are attached hereto.

The District Court will be deciding the same issues in the Action that the Trademark Trial and Appeal Board is asked to determine in the opposition. Suspending the opposition proceeding will therefore save the Opposer and the Applicant time and expense, and reduce the burden on the resources of the U.S. Patent and Trademark Office.

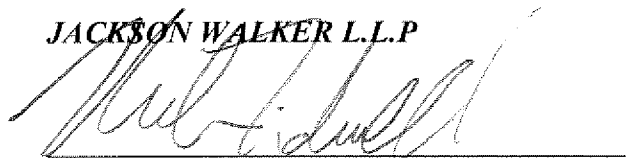
The Board routinely grants motions to suspend pending the outcome of a pending civil action which may be dispositive of the inter partes proceeding. 37 C.F.R. 2.117(a); T.M.B.P. §510.02(a); *See also Marie Claire Album S.A. v. Kruger GmbH & Co. KG*, 29 U.S.P.Q.2D 1792 (T.T.A.B. 1993)(suspending opposition pending disposition of civil action); *Jennifer Lopez v. Glow Industries*, Opposition No. 91154310 (T.T.A.B. April 9, 2003)(suspending opposition pending disposition of civil action); *Black Box Corporation of Pennsylvania and BB*

Technologies, Inc. v. Better Box Communications Limited, Opposition No. 107,800 Opposition No. 107,801, (T.T.A.B. March 29, 2002)(suspending opposition pending disposition of civil action).

Therefore, Applicant respectfully requests that its motion to suspend be granted.

Respectfully Submitted,

JACKSON WALKER L.L.P



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CERTIFICATE OF SERVICE

I certify that a true and complete copy of the foregoing Motion to Suspend Proceedings has been served on Key Systems by mailing said copy on the 17 day of February 2006, via First Class Mail, postage prepaid to:

Steven R. Scott
Brown & Michaels, PC
400 M&T Bank Building
118 North Tioga Street
Ithaca, New York 14850

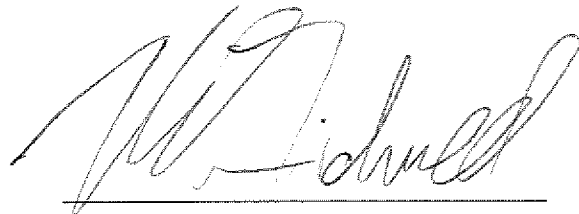


EXHIBIT A

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