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

Proceeding	91184143
Party	Plaintiff ANTHONY P. SCHMIDT
Correspondence Address	RICHARD S. ROSS, ESQ. SUITE 237 4801 SOUTH UNIVERSITY DRIVE FT. LAUDERDALE, FL 33328 UNITED STATES prodp@ix.netcom.com
Submission	Motion to Suspend for Civil Action
Filer's Name	RICHARD S. ROSS, ESQ.
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Date	09/23/2008
Attachments	opp3.ts.pdf (2 pages)(40135 bytes) Schmidt Complaint.pdf (12 pages)(443634 bytes)

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

ANTHONY P. SCHMIDT, JR.

Opposer,

v.

Opposition No. 91184143

Opposition No. 91185234

VERSACOMP, INC.

Applicant.

**OPPOSER'S MOTION TO SUSPEND PROCEEDINGS PENDING OUTCOME OF
ANOTHER PROCEEDING, OR ALTERNATIVELY, TO RESET CONFERENCING,
DISCOVERY, DISCLOSURE AND TRIAL DATES**

Commissioner for Trademarks
P.O. Box 1451
Alexandria, Virginia 22313-1451

COMES NOW, the Opposer, ANTHONY P. SCHMIDT ("Schmidt"), who respectfully moves this Board for an order suspending the present proceedings pending the outcome of the parties' federal district court civil action regarding issues in common with those here, in *Anthony P. Schmidt, Jr. v. Versacomp, Inc., et al.*, Case No. 08-60084-CIV-JORDAN (S.D. Fla. 2008)("Action"). TBMP §510.02(a). *See* 37 C.F.R. §2.117(a). *See also* *General Motors Corp. v. Cadillac Club Fashions, Inc.*, 22 U.S.P.Q. 2d 1933 (TTAB 1992). Attached to this motion is a copy of the complaint in the Action. (Exhibits omitted). To the extent the Board decides not to suspend proceedings, Schmidt alternatively moves that it reset conferencing, discovery, disclosure and trial dates. Counsel have conferred regarding the substance of this motion, and as of the present date, Applicant has not decided whether it will oppose the motion

WHEREFORE, Schmidt respectfully moves for an order granting this motion, and

suspending proceedings pending the outcome of the Action.

Respectfully submitted,

By: s/Richard S. Ross, Esq.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served this 23rd day of September, 2008 to counsel for Applicant by First Class United States Postal Service Mail addressed as follows:

Daniel S. Polley, Esq.
DANIEL S. POLLEY, P.A.
1215 E. Broward Blvd.
Ft. Lauderdale, FL 33301-2133

s/Richard S. Ross, Esq.
RICHARD S. ROSS, ESQ.

MAGISTRATE JUDGE
SNOW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-60084

ANTHONY P. SCHMIDT, JR.,

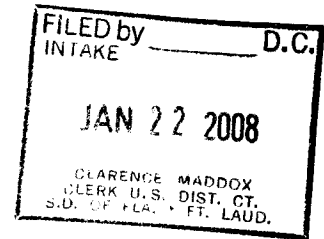
CIV-ZLOCH

Plaintiff,

v.

VERSACOMP, INC. d/b/a
TNT LIFT SYSTEMS, a Florida corporation;
and RICHARD ULRICH,

Defendants.



**COMPLAINT FOR TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF
ORIGIN, UNFAIR COMPETITION, BREACH OF SETTLEMENT AGREEMENT,
CANCELLATION OF FLORIDA STATE TRADEMARK/SERVICE MARK
REGISTRATIONS, AND INJUNCTIVE RELIEF**

Plaintiff ANTHONY P. SCHMIDT, JR, (hereinafter "Plaintiff" or "Schmidt"), by his attorney, as and for his Complaint, sues Defendants VERSACOMP, INC. d/b/a TNT LIFT SYSTEMS, a Florida corporation; and RICHARD ULRICH (collectively "Defendants"), and alleges and avers as follows:

JURISDICTION AND VENUE

1. This is a complaint for federal trademark infringement, and false designation of origin arising under §§ 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114(1) and 1125(a), respectively, for Florida unfair competition, for breach of a settlement agreement, and for cancellation of two Florida Department of State trademark/service mark registrations.
2. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a) and 15 U.S.C. § 1121. This Court has related supplemental claim jurisdiction over the state

law claims pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367. This court has retained subject matter jurisdiction over the breach of settlement agreement claim by virtue of its Order [DE 59] in *Schmidt v. Versacomp, et al.*, Case No. 05-61593-CIV-JORDAN.

3. Venue is proper in this district under 28 U.S.C. §1391(b) and (c) because a substantial part of the events or omissions giving rise to the claims occurred and occur in this district, and the Defendants regularly conduct business in this district.

THE PARTIES

4. The Plaintiff, ANTHONY P. SCHMIDT, JR., is an individual domiciled in the state of Michigan and a resident of the state of Florida, and is a citizen of the United States of America.

5. The Defendant, VERSACOMP, INC. d/b/a TNT LIFT SYSTEMS, is a corporation organized under the laws of the state of Florida, with a principal place of business address in Ft. Lauderdale, Florida. Upon information and belief, Versacomp, Inc. is engaged in the business of manufacturing and selling marine accessories, including boat lifting devices, throughout the United States including this district.

6. The Defendant, RICHARD ULRICH, upon information and belief, is the president, a director, and the majority shareholder of Defendant Versacomp, Inc.

FACTUAL BACKGROUND

7. Schmidt is an entrepreneur and inventor.

8. Schmidt is the owner of all substantial right, title and interest in and to a number of United States patents, including, but not limited to U.S. Pat. No. 5,544,606 (“the ‘606 patent”) which issued on April 13, 1996. The ‘606 patent is directed to a vehicle lift for a boat. More specifically, the lift is attached to the transom of a large boat or yacht and is power operated to raise or lower a lift

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