ESTTA Tracking number:

ESTTA556962 08/29/2013

Filing date:

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

Proceeding	91208653
Party	Plaintiff DM Luxury, LLC
Correspondence Address	ROBERT B BURLINGAME PILLSBURY WINTHROP SHAW PITTMAN LLP PO BOX 2824 SAN FRANCISCO, CA 94126-2824 UNITED STATES sftrademarks@pillsburylaw.com, rburlingame@pillsburylaw.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Robert B. Burlingame
Filer's e-mail	rburlingame@pillsburylaw.com, sftrademarks@pillsburylaw.com
Signature	/Robert B. Burlingame/
Date	08/29/2013
Attachments	8-29-13 Motion to Suspend.pdf(3669714 bytes)



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

DM Luxury, LLC,	<u> </u>
Opposer,) Opposition No. 91208653
VS.)) Mark: THAT'S MODERN LUXURY
Celebrity Cruises Inc.,) Ser. No.: 85421117
Applicant.)
)

MOTION TO SUSPEND PENDING FINAL DISPOSITION OF CIVIL ACTION

Pursuant to 37 C.F.R. § 2.117(a) and T.B.M.P. Section 510.02(a), DM Luxury, LLC ("Opposer") hereby requests that the Trademark Trial and Appeal Board ("Board") suspend the above-identified Opposition proceeding pending the final disposition of the parties' related civil action in the United States District Court for the Northern District of Illinois.

On August 29, 2013, Opposer filed a civil lawsuit against Applicant in the United States District Court for the Northern District of Illinois (see attached copy of the Civil Cover Sheet and the Complaint). The civil action has been assigned Case No. 1:13-cv-06177 and involves issues in common with those before the Board in this Opposition proceeding. The decision in the civil action will likely be dispositive of this Opposition proceeding and binding upon the Board.

Per 37 C.F.R. § 2.117(a), it is the policy of the Board to suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case. Opposer therefore respectfully requests:

that the Board suspend this Opposition proceeding (retroactive to the date of this
 Motion) pending final disposition of the civil action between the parties; and



2) in the event this Motion is granted and this Opposition proceeding is later resumed following the final disposition of the civil action between the parties, that the Board provide the parties with an additional 30 days to complete discovery if and when the Opposition proceeding is resumed.

Thank you.

Date: August 29, 2013

Respectfully submitted,

DM Luxury, LLC

Robert B. Burlingame

PILLSBURY WINTHROP SHAW PITTMAN LLP

Four Embarcadero Center, 22nd Floor

San Francisco, CA 94111

(415) 983-1274

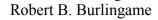
SFtrademarks@pillsburylaw.com

Opposition No. 91208653

PROOF OF SERVICE BY EMAIL

- I, Robert B. Burlingame, the undersigned, hereby certify and declare under penalty of perjury that the following statements are true and correct:
- 1. I am over the age of 18 years and am not a party to the within cause. I am employed by Pillsbury Winthrop Shaw Pittman LLP in San Francisco, CA.
- 2. My business address is Four Embarcadero Center, 22nd Floor, San Francisco, CA 94111. My mailing address is P.O. Box 2824, San Francisco, CA 94126-2824. My email address is rburlingame@pillsburylaw.com.
- 3. On August 29, 2013, I served a true copy of the attached "MOTION TO SUSPEND PENDING FINAL DISPOSITION OF CIVIL ACTION" upon Applicant's attorney Ronald E. Shapiro by email (as previously agreed) to rshapiro@sasiplaw.com.

Executed this 29th day of August, 2013, at San Ramon, California.



Case: 1:13-cv-06177 Document #:37 Filed: \$18/29/13 Page 1 of 2 PageID #:59

JS 44 (Rev. 3/13)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the

purpose of initiating the civil do	cket sheet. (SEE INSTRUCTIONS ON NEXT PAG	E OF THIS FO	ORM.)				
I. (a) PLAINTIFFS			DEFENDANTS				
DM LUXURY, LLC			CELEBRITY CRUISES, INC.				
(b) County of Residence of First Listed Plaintiff Cook County (EXCEPT IN U.S. PLAINTIFF CASES)				(IN U.S. PLAINTIFF CASES OF	Miami-Dade County VLY) ASES, USE THE LOCATION OF VED.		
(c) Attorneys (Firm Name, Address, and Telephone Number)			Attorneys (If Known)				
(see attachment)							
·							
II. BASIS OF JURISDICTION (Place an "X" in One Box Only) 1 U.S. Government 3 Federal Question			(For Diversity Cases Only) PT	NCIPAL PARTIES (Planet)	and One Box for Defendant) PTF DEF		
Plaintiff	(U.S. Government Not a Party)		en of This State	1 Incorporated or Pri of Business In TI	his State		
2 U.S. Government Defendant			Citizen of Another State 2 2 Incorporated and Principal Place of Business In Another State 5 5				
			ten or Subject of a oreign Country	3 3 Foreign Nation	6 6		
IV. NATURE OF SUIT	(Place an "X" in One Box Only)						
CONTRACT	TORTS		ORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES 375 False Claims Act		
□ 110 Insurance □ 120 Marine □ 130 Miller Act □ 140 Negotiable Instrument □ 150 Recovery of Overpayment ⊕ Enforcement of Judgment □ 151 Medicare Act □ 152 Recovery of Defaulted Student Loans (Excludes Veterans) □ 153 Recovery of of Veteran's Benefits □ 160 Stockholders' Suits □ 190 Other Contract □ 195 Contract Product Liability □ 196 Franchise	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 755 Motor Vehicle 756 Motor Vehicle 760 Assender Product Liability 360 Other Personal Injury 360 Other Personal Injury 360 Other Personal Injury 360 Other Personal Injury 460 Assentory 576 Assentory 577 Assenting Product Liability 678 Assentory 679 Assentory 679 Assentory 679 Assentory 670 Assento	ary - cal cal cry ility rsonal cet DPERTY	25 Drug Related Seizure of Property 21 USC 881 90 Other LABOR 10 Fair Labor Standards Act 20 Labor/Management Relations 40 Railway Labor Act 51 Family and Medical Leave Act 90 Other Labor Litigation 91 Employee Retirement	23 Withdrawal 400 State Reapportic 410 Antitrust 430 Banks and Bank 450 Commerce 460 Deportation 470 Racketeer Influence 480 Consumer Cred 480 Consu	□ 430 Banks and Banking □ 450 Commerce □ 460 Deportation □ 470 Racketeer Influenced and Corrupt Organizations □ 480 Consumer Credit □ 490 Cable/Sat TV □ 850 Securities/Commodities/Exchange □ 890 Other Statutory Actions □ 891 Agricultural Acts □ 893 Environmental Matters □ 895 Freedom of Information Act		
□ 210 Land Condemnation □ 220 Foreclosure □ 230 Rent Lease & Ejectment □ 240 Torts to Land □ 245 Tort Product Liability □ 290 All Other Real Property	440 Other Civil Rights	ty % Other ition 4 ee - of	Income Security Act IMMIGRATION 62 Naturalization Application 63 Habeas Corpus - Alien Detainee (Prisoner Petition) 65 Other Immigration Actions	□ 870 Taxes (U.S. Plaintiff or Defendant) □ 871 IRS—Third Party 26 USC 7609	Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes		
V. ORIGIN (Place an "X" in One Box Only) 1 Original							
write a brief statement of cause.)	N (Enter U.S. Civil Statute under which you are fili	ng and num Use	I. Previous Bankrup ber and judge for any associate a separate attachment if necess		uit 422 and 423, enter the case djudicated by a judge of this Court.		
VIII. REQUESTED IN ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.			CHECK YES only if demanded in complaint: JURY DEMAND: Yes No				
IX. RELATED CASE(DOCKET NUMBER			
X. This case (check one box) Is not a refiling of a previously dismissed action is a refiling of case number previously dismissed by Judge							
OVOLUTION OF THE OWNER OW							

DATE 8/29/13

SIGNATURE OF ATTORNEY OF RECORD /s/ A. John P. Mancini



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