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

Proceeding	91214407
Party	Plaintiff Innovative Staffing, Inc.
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Signature	/Casey W. Jones/
Date	09/09/2015
Attachments	Mot to Suspend Proceedings.pdf(14356 bytes) Exhibit A.pdf(105400 bytes) Exhibit B.pdf(1002952 bytes)

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

In the Matter of Trademark Application Serial No.: 85642675

For the Trademark: ISHR

Published in the *Official Gazette* on January 7, 2014

Innovative Staffing, Inc., a Utah corporation,

Opposer,

v.

Proceeding No. 91214407

ISHR LLC, a Utah limited liability company,

Applicant.

OPPOSER’S MOTION TO SUSPEND PROCEEDINGS

COMES NOW Opposer, Innovative Staffing, Inc., a Utah corporation (“Opposer”), by and through its counsel, Strong & Hanni, and hereby files this Motion to Suspend this proceeding until final determination of the federal district court proceeding between the parties.

The parties are engaged in a civil proceeding in United States District Court of Utah which involves Applicant’s infringement of Opposer’s registered trademarks. It will have a direct bearing on this proceeding because Applicant’s use of the ISHR mark (which is the subject of this Proceeding) is the basis for Opposer’s infringement claim. A copy of the docket is attached hereto as Exhibit A. Opposer filed the federal action against Applicant in the United States District Court of Utah on December 29, 2014. A copy of the Complaint is attached hereto as Exhibit B.

If Opposer is successful on its trademark infringement claim against Applicant, it will directly affect the registrability of Applicant’s Trademark Application Serial No. 85642675.

Therefore, the federal district court action involves issues in common with those in this Proceeding before the Board and the federal district court's decision is binding upon the Board, while the decision of the Board's is not binding upon the federal district court. *See Goya Foods Inc. v. Tropicana Products Inc.*, 846 F.2d 848, 6 USPQ2d 1950, 1954 (2d Cir. 1988) (doctrine of primary jurisdiction might be applicable if a district court action involved only the issue of registrability, but would not be applicable where court action concerns infringement where the interest in prompt adjudication far outweighs the value of having the views of the USPTO).

The Board's decision will not affect the legal standard applied in the federal infringement action or the scope of the required fact-finding. The federal court must independently determine the validity and priority of the marks and the likelihood of consumer confusion as to the source of the services which is to be resolved not by reference to a decision by the Board in this Proceeding, but by application of the multi-factor balancing test applied by federal courts.

For these reasons, Opposer respectfully requests the Board to suspend this Proceeding until final determination of the federal district court proceeding.

This Motion to Suspend Proceedings is being submitted electronically through ESTTA.

Dated: September 9, 2015

Respectfully submitted,

/Casey W. Jones/
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is the attorney for Opposer, Innovative Staffing Inc., in the above-captioned Opposition proceeding and that on the date which appears below, he caused a copy of the foregoing **OPPOSER'S MOTION TO SUSPEND PROCEEDINGS** to be served on the following by first class mail service and email:

Counsel for Applicant:

Steven L. Rinehart
110 S. Regent Street, Suite 200
Salt Lake City, UT 84111
Attorney for Applicant ISHR, LLC
steve@uspatentlaw.us

Dated: September 9, 2015

/Casey W. Jones/
Casey W. Jones

EXHIBIT A

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