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Filing date: **04/30/2019**

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

Proceeding	91242516
Party	Defendant James Lewis
Correspondence Address	ANTHONY M VERNA III 80 THEODORE FREMD AVENUE RYE, NY 10580 UNITED STATES anthony@vernalaw.com no phone number provided
Submission	Other Motions/Papers
Filer's Name	Anthony M. Verna III
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Signature	/s Anthony M. Verna III s/
Date	04/30/2019
Attachments	Motion to Suspend 1.pdf(4177598 bytes ) Motion to Suspend 2a.pdf(3314059 bytes ) Motion to Suspend 2b.pdf(4651823 bytes )

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

Mark L. Eldridge	)	Opposition No.: 91242516
	)	
Plaintiff,	)	
vs.	)	
	)	
James Lewis	)	
	)	
Defendant	)	
	)	
	)	
	)	
	)	
	)	
	)	
	)	

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**MOTION TO SUSPEND PENDING CIVIL ACTION**

James Lewis (“Defendant” or “Applicant”), through his attorney, Anthony M. Verna III, hereby files this Motion to Suspend pending the disposition of a civil action between the parties pursuant to Trademark Rule 2.117(a), 37 C.F.R § 2.117(a).

On February 20, 2019, Plaintiff/Opposer Mark L. Eldridge filed a complaint in the Northern District of New York against James Lewis, the Defendant/Applicant in this proceeding. This complaint was not served until April 15, 2019. The complaint contains averments of copyright infringement, trademark infringement (with the marks that are at issue in this proceeding), false designation of origin, false advertising, and a New York State claim of deceptive business practices. See EXHIBIT A for the complaint.

The pending civil action accordingly involves issues which are involved in this proceeding, namely whether the Plaintiff in this proceeding has been harmed by Applicant’s use and application of the OBVIOUS AUTHORITY trademark contains a legitimate basis to support a finding of non-infringement. The determination of these issues by the District Court will likely be dispositive of the issues involved in this proceeding. Applicant, therefore, respectfully

requests suspension of these proceedings pending determination of the civil action pursuant to Trademark Rule 2.1 17(a), 37 C.F.R. § 2.11 7(a). *Whopper-Burger, Inc. v. Burger King Corp.*, 171 U.S.P.Q. 805, 807 (T.T.A.B. 1971) (suspending Cancellation proceeding in light of pending federal litigation because “the outcome of the civil action will have a direct bearing on the question of the rights of the parties herein and may in fact completely resolve all the issues.”).

Dated: April 30, 2019

/s Anthony M. Verna III  
Anthony M. Verna III, Esq.  
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**IN THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark L. Eldridge )  
 ) Opposition No.: 91242516  
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 Plaintiff, )  
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 James Lewis )  
 )  
 Defendant )  
 )  
 )  
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 )  
 )

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 30<sup>th</sup> day of April 2019, a copy of the foregoing Motion was served via e-mail on the following:

Mark L. Eldridge  
711 Chaucer Circle  
Fort Mill, SC 29708  
eldridge2m@gmail.com, eeconsults@gmail.com

Respectfully submitted,

Dated this April 30, 2019

/s/ Anthony M. Verna III  
Anthony M. Verna III, Esq.  
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80 Theodore Fremd Ave.  
Rye, NY 10580

EXHIBIT A

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