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

Proceeding no.	91275760
Party	Defendant USFL Enterprises, LLC
Correspondence address	ERIC LAMB FROST BROWN TODD LLP 111 MONUMENT CIRCLE, SUITE 4500 INDIANAPOLIS, IN 46204 UNITED STATES Primary email: trademarks@fbtlaw.com Secondary email(s): elamb@fbtlaw.com, mclark@fbtlaw.com 317-237-3800
Submission	Motion to Suspend for Civil Action
Filer's name	Matthew J. Clark
Filer's email	mclark@fbtlaw.com, elamb@fbtlaw.com, fbtiplitigation@fbtlaw.com
Signature	/Matthew J. Clark/
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 90/480,906
Mark: HOUSTON GAMBLERS

CIP FAMILY, LLC,

Opposer,

v.

USFL ENTERPRISES, LLC

Applicant.

Opposition No. 91275760

MOTION TO SUSPEND FOR CIVIL ACTION

Pursuant to 37 C.F.R. § 2.117(a), Applicant USFL Enterprises, LLC (“**Applicant**”) hereby moves to suspend the above-referenced proceeding pending the outcome of civil action no. 2:23-cv-02189-SHL-cgc, *CIP FAMILY, LLC v. THE SPRING LEAGUE, LLC, USFL ENTERPRISES, LLC and FOX SPORTS, INC.*, pending in the United States District Court for the Western District of Tennessee (the “**Civil Action**”). Under the aforementioned regulation, “[w]henver it . . . come[s] to the attention of the Trademark Trial and Appeal Board that a civil action . . . may have a bearing on a pending case, proceedings before the Board may be suspended until termination of the civil action.” As noted in TBMP § 510.02, it is the “Board’s policy to suspend in favor of a civil action.”

Opposer CIP Family, LLC (“**Opposer**”) sued Applicant, along with others, in the Civil Action for trademark infringement under 15 U.S.C. §§ 1114–1117 and unfair competition and false designation of origin under 15 U.S.C. § 1125 based on its use of the HOUSTON GAMBLERS trademark and service mark—the applied-for mark in Applicant’s application that is the subject of this opposition proceeding—on grounds that such trademark and service mark creates a likelihood of confusion with its registered GAMBLERS trademark (reg. no. 6,381,024) used in connection with

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various clothing and its registered GAMBLERS JIU JITSU AND KICKBOXING service mark (reg. no. 6,110,946) used in connection with personal fitness training services. See Exhibit A. In Opposer's Civil Action complaint, Opposer seeks judgment from the court for an order, *inter alia*, that Applicant be enjoined from using the HOUSTON GAMBLERS trademark and service mark, an order requiring Applicant to transfer the HOUSTON GAMBLERS trademark and service mark to Opposer, and any other relief the Court may deem proper. See *Id.* In turn, in the same Civil Action, Applicant filed counterclaims against Opposer seeking cancellation of Opposer's registrations that are the subject of this opposition proceeding, i.e., registration no. 6,381,024 for GAMBLERS and registration no. 6,110,946 for GAMBLERS JIU JITSU AND KICKBOXING, based on several grounds. See Exhibit B.

It is self-evident that judgment in the Civil Action may have a bearing on this opposition proceeding. The Civil Action involves the same parties, the same marks, registrations and applications, the same claim of likelihood of confusion, and the same request to cancel Opposer's registrations. Given the Board's policy to suspend in favor of a civil action, and the clear effect judgments in the Civil Action could have on this pending opposition, Applicant's counsel has requested several times from Opposer's counsel consent to the suspension of the opposition proceeding pending the outcome of the Civil Action. Opposer's counsel, however, will not give consent to the suspension and to date has not identified a reason for the denial.

Therefore, Applicant moves to suspend the above-referenced proceeding pending the outcome of the Civil Action for the reasons noted above. A copy of the Complaint, Defendants' Answer and Counterclaims, Notice of Scheduling Conference, and Plaintiff's Answer to Defendants' Counterclaims are attached as Exhibits A, B, C and D, respectively.

/Matthew J. Clark/
Matthew J. Clark
Eric Lamb

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FROST BROWN TODD LLP
mclark@fbtlaw.com; elamb@fbtlaw.com;
fbtiplitigation@fbtlaw.com

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CERTIFICATE OF SERVICE

I hereby certify that on July 11, 2023, I caused a true and correct copy of Applicant's Motion to Suspend for Civil Action to be served by email upon the following attorney of record for Opposer:

Viktor Lyusi at Viktor@Lomnitzerlaw.com, allen@lomnitzerlaw.com, assistant@lomnitzerlaw.com, lorri@lomnitzerlaw.com, and Maggie@Lomnitzerlaw.com.

/Matthew J. Clark/

Matthew J. Clark

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