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

Proceeding no.	91277442
Party	Defendant Fortitude Health, LLC
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Submission	Motion to Suspend for Civil Action
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Signature	/kmh355/
Date	10/06/2022
Attachments	Fortitude Health Motion to Suspend for Civil Action.pdf(626141 bytes)

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

HealFast Inc.)
Opposer,)
v.) Opposition No. 91277442
Fortitude Health, LLC)
Applicant.)
_____)

APPLICANT’S MOTION TO SUSPEND FOR CIVIL ACTION

Pursuant to 37 C.F.R. §2.117(a), Applicant Fortitude Health, LLC (“Applicant”) respectfully requests that the Board suspend this opposition proceeding pending the final determination of the civil action filed by Opposer HealFast Inc. (“Opposer”) against Applicant. The grounds for Applicant’s motion are as follows:

1. On February 1, 2022, Opposer filed a complaint against Applicant in the District Court for the Eastern District of New York (Case No. 2:22-cv-00592). Applicant has attached a copy of the complaint.
2. Among the claims in its complaint, Opposer seeks a declaratory judgment of non-infringement of Applicant’s HEALFAST and HEELFAST marks which have previously been registered (U.S. Registration Nos. 6,219,376 and 6,552,454, respectively).
3. On April 4, 2022, Applicant filed an answer to Opposer’s complaint, denying the salient allegations of the complaint. Applicant has attached a copy of the answer.
4. The products for which Applicant’s HEALFAST and HEELFAST marks have been registered are strongly related and overlapping with the products identified in Applicant’s trademark application for HEALFAST SKINCARE (Serial No. 90895127).

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been served by emailing said copy on 10/6/2022 to:

Andrew D. Bochner
Attorney for Opposer
andrew@bochnerip.com

/kmh355/
Kevin Haynie, Attorney for Applicant

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

Justin Samra and HealFast, Inc.,)	
)	
Plaintiffs,)	CIVIL ACTION NO.:
)	
v.)	
)	
Fortitude Health, LLC,)	
)	JURY TRIAL DEMANDED
Defendant.)	

COMPLAINT

Plaintiffs Justin Samra (“Justin”) and HealFast, Inc. (“HealFast” and, collectively, “Plaintiffs”), by and through its attorneys, hereby file this Complaint and allege against Fortitude Health, LLC (“Defendant”) on personal knowledge as to their own activities and on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. Plaintiffs bring this action to protect themselves from the wrongful and malicious actions of Defendant, and to seek declaratory judgment of non-infringement of Defendant’s trademarks arising under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, the Lanham Act, 15 U.S.C. §§ 1052 and 1125, *et seq.*, unfair competition practices, tortious interference with prospective economic advantage, as well as related claims under the statutory and common laws of the State of New York. Plaintiff Justin also brings an action for breach of contract against Defendant.

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