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

Proceeding	92051145
Party	Defendant 3M Company
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Signature	/William Schultz/
Date	08/24/2010
Attachments	4871325_1.pdf (22 pages)(1216459 bytes)

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

Pradeep Mohan,)	
)	Cancellation No. 92051145
Petitioner,)	
)	
vs.)	Registration No. 3619324
)	
3M Company,)	Mark: CARDIOLOGY III
)	
Registrant.)	
)	

**MOTION TO DISMISS BASED ON DISTRICT COURT DECISION AND
ALTERNATIVE REQUEST FOR CONTINUED SUSPENSION**

This Motion is in reply to the Notice dated August 6, 2010, requesting that parties notify the Trademark Trial and Appeal Board ("Board") of the status of the civil action which occasioned the suspension of this proceeding.

Enclosed as Exhibit 1 is the August 9, 2010, Order¹ from the United States District Court for the District of Minnesota finding the CARDIOLOGY III registration (Reg. No. 3,619,324) valid. A district court can conclusively determine a validity issue addressed in the Board proceeding. *See American Bakeries Co. v. Pan-O-Gold Baking Co.*, 650 F. Supp. 563, 566-67 (D. Minn. 1986) (denying stay of district court action pending Board proceeding based in part on district court's jurisdiction to conclusively determine issues common between Board and district court). Based on the District Court's decision, Registrant requests dismissal of this cancellation proceeding with prejudice.

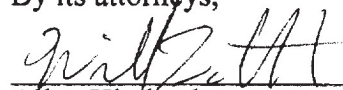
¹ The civil action remains pending on other issues and is presently set for a bench trial on October 4, 2010. Enclosed as Exhibit 2 is a copy of the recently issued Order from the United States District Court for the District of Minnesota regarding the pending dates in the civil action.

Registrant acknowledges that the District Court's Order, while final at the district court level, is not appealable until after the Judgment entered upon completion of the scheduled bench trial. Should the Board not grant Registrant's motion to dismiss at this time, Registrant requests that the Board continue the suspension pending the final resolution of the civil action.

Respectfully submitted,

3M Company

By its attorneys,



Allen Hinderaker

William Schultz

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80 S. 8th Street

3200 IDS Center

Minneapolis, MN 55402

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8/24/2010
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION TO DISMISS BASED ON DISTRICT COURT DECISION AND ALTERNATIVE REQUEST FOR CONTINUED SUSPENSION** was served, via first-class mail, postage prepaid to:

Pradeep Mohan
115 Chace Street
Santa Cruz, CA 95060


this 24th day of August, 2010.



William Schultz

CERTIFICATE OF FILING

I hereby certify that this **MOTION TO DISMISS BASED ON DISTRICT COURT DECISION AND ALTERNATIVE REQUEST FOR CONTINUED SUSPENSION** is being filed electronically with the United States Patent and Trademark Office's Electronic System for Trademark Trial & Appeals (ESTTA) on this 24th day of August, 2010.



William Schultz

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

3M COMPANY, a Delaware
corporation, and 3M INNOVATIVE
PROPERTIES COMPANY, a Delaware
corporation,

Plaintiffs,

v.

Pradeep Mohan,

Defendant.

**MEMORANDUM OPINION
AND ORDER**

Civil No. 09-1413 ADM/FLN

Allen W. Hinderaker, Esq., and William Schultz, Esq., Merchant & Gould P.C., Minneapolis, MN; Hildy Bowbeer, Esq., 3M Innovative Properties Company, St. Paul, MN, on behalf of Plaintiffs.

Pradeep Mohan, pro se.

I. INTRODUCTION

This matter is before the undersigned United States District Judge for a ruling on Plaintiffs 3M Company and 3M Innovative Properties Company's (collectively "3M") Motion for Partial Summary Judgment [Docket No. 122].¹ For the reasons stated below, 3M's partial summary judgment motion is granted.

II. BACKGROUND

3M manufactures and sells stethoscopes under the LITTMANN brand. Am. Compl. [Docket No. 69] ¶¶ 7-8. 3M obtained federal trademark registration for various marks used and associated with the LITTMANN brand including (1) MASTER CARDIOLOGY, United States

¹ Defendant Pradeep Mohan filed a partial summary judgment motion which the Court orally denied at the July 14, 2010 hearing.



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