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

Proceeding	92061193
Party	Defendant Sprout Retail, Inc.
Correspondence Address	CHARLES L THOMASON 55 W 12TH AVE COLUMBUS, OH 43210 UNITED STATES thomason@spatlaw.com
Submission	Other Motions/Papers
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Date	04/06/2016
Attachments	Sprout_English_NMo-Exh_resumption_04_06_2016.pdf(187399 bytes )

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

SFM, LLC

~vs.

Sprout Retail Inc.,

Petitioner,

Respondent.

Cancellation no. 92061193

ELECTRONICALLY FILED

RESUMPTION MOTION PURSUANT TO §510 TBMP.

**TO:** Nicole M. Murray, Esq.  
Quarles & Brady LLP  
300 N. LaSalle St., Suite 4000  
Chicago, IL 60654  
Email: *Nicole.Murray[at]quarles[dot]com*

**PLEASE TAKE NOTICE** that the Respondent moves for resumption of the action, and entry of an Order to Show Cause why this action should not be dismissed pursuant to Rule 12(b) because the petition fails to plead plausibly the allegations, especially the proximate cause allegations, required by *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, — U.S. —, 109 USPQ2d 2062 (2014), as applied to cancellation actions in *Belmora LLC v. Bayer Consumer Care AG*, --- F.3d --- (4<sup>th</sup> Cir. Mar. 23, 2016), attached hereto.

In accordance with §510.02 TBMP, a Show Cause order is requested.

Respectfully submitted,

6 APR 2016

~ S ~ /Charles L. Thomason/  
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55 W. 12<sup>th</sup> Ave.  
Columbus, OH 43210  
Email: *Thomason[at]spatlaw[dot]com*  
Telep. (502) 349-7227  
Attorney for Respondent-Registrant

## CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of April, 2016, I electronically filed the foregoing Notice of Motion, and mailed a copy to the attorneys for the Petitioner, directed to the address of the attorney indicated below:

Nicole M. Murray, Esq.  
Quarles & Brady LLP  
300 N. LaSalle St., Suite 4000  
Chicago, IL 60654

Date: 6 APR 2016

~ S ~ /Charles L. Thomason/  
Charles L. Thomason

**PUBLISHED**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-1335**

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BELMORA LLC,

Plaintiff - Appellee,

v.

BAYER CONSUMER CARE AG, a Swiss corporation; BAYER  
HEALTHCARE LLC, a Delaware Limited Liability Company,

Defendants - Consolidated Plaintiffs - Appellants,

v.

BELMORA LLC, a Virginia Limited Liability Company; JAMIE  
BELCASTRO, an individual; DOES, 1-10, inclusive,

Consolidated Defendants - Appellees,

and

MICHELLE K. LEE, Undersecretary for Intellectual Property  
and Director of the United States Patent and Trademark  
Office (Director),

Intervenor.

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AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION,

Amicus Curiae.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Alexandria. Gerald Bruce Lee, District  
Judge. (1:14-cv-00847-GBL-JFA)

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Argued: October 27, 2015

Decided: March 23, 2016

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Before AGEE, FLOYD, and THACKER, Circuit Judges.

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Vacated and remanded by published opinion. Judge Agee wrote the opinion, in which Judge Floyd and Judge Thacker joined.

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**ARGUED:** Bradley Louis Cohn, PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON LLP, Chicago, Illinois, for Appellants. Martin Schwimmer, LEASON ELLIS LLP, White Plains, New York, for Appellee. Lewis Yelin, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Intervenor. **ON BRIEF:** Phillip Barengolts, Andrew R.W. Hughes, PATTISHALL, MCAULIFFE, NEWBURY, HILLIARD & GERALDSON LLP, Chicago, Illinois; Robert J. Shaughnessy, Eric C. Wiener, WILLIAMS & CONNOLLY LLP, Washington, D.C., for Appellants. Craig C. Reilly, Alexandria, Virginia; John L. Welch, WOLF, GREENFIELD & SACKS, P.C., Boston, Massachusetts; Lauren B. Sabol, LEASON ELLIS LLP, White Plains, New York; Rebecca Tushnet, GEORGETOWN UNIVERSITY LAW CENTER, Washington, D.C., for Appellees. Mark R. Freeman, Civil Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Dana J. Boente, United States Attorney, Benjamin C. Mizer, Principal Deputy Assistant Attorney General, OFFICE OF THE UNITED STATES ATTORNEY, Washington, D.C.; Nathan K. Kelley, Solicitor, Christina J. Hieber, Associate Solicitor, Mary Beth Walker, Associate Solicitor, Benjamin T. Hickman, Associate Solicitor, UNITED STATES PATENT AND TRADEMARK OFFICE, Alexandria, Virginia, for Intervenor. Sharon A. Israel, President, AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION, INC., Arlington, Virginia; Jennifer L. Kovalcik, STITES & HARBISON, PLLC, Nashville, Tennessee, for Amicus Curiae.

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