

ESTTA Tracking number: **ESTTA706584**

Filing date: **11/04/2015**

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

Proceeding	92062429
Party	Defendant Avintiv Specialty Materials Inc.
Correspondence Address	AVINTIV SPECIALTY MATERIALS INC 9335 HARRIS CORNERS PKWY, STE 300 CHARLOTTE, NC 28269 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Sarah C. Hsia
Filer's e-mail	sarah@sneedlegal.com, jsneed@sneedlegal.com, nhayes@sneedlegal.com
Signature	/sch/
Date	11/04/2015
Attachments	2015-11-04 92062429 PGI Motion to Suspend Proceedings.pdf(85407 bytes) Exhibit A - Complaint.pdf(3617079 bytes) Exhibit B Answer and Counterclaims.pdf(42699 bytes) Exhibit C Answer to Counterclaims.pdf(1637538 bytes)

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

In Re Registration No. 1,256,427
Mark: Design only
Issued: November 1, 1983

_____)	
3M Company,)	
)	
Petitioner,)	
)	
v.)	Cancellation No. 92062429
)	
AVINTIV Specialty Materials Inc.,)	
)	
Respondent.)	
_____)	

MOTION TO SUSPEND

Respondent AVINTIV Specialty Materials Inc. (“Respondent”) respectfully moves for a suspension of the captioned cancellation proceedings pending the outcome of the first-filed U.S. District Court Case No. 3:15-cv-00212-FDW-DSC.

On May 8, 2015, long prior to instigation of this Cancellation on October 9, 2015, Respondent filed a Civil Action in the United States District Court for the Western District of North Carolina involving claims of trademark infringement and unfair competition concerning Respondent’s U.S. Trademark Registration No. 1,256,427 (the “Cross Hatch Design” or “427 Registration”) against Petitioner and Target Corporation (the “WDNC Action”). Petitioner has asserted Counterclaims in the WDNC Action against Respondent for cancellation of the ‘427 Registration on the grounds of genericness and abandonment. The WDNC Action involves identical parties and common issues and thus has direct bearing on the instant cancellation proceeding.

Respondent thus submits that it is in the interest of judicial efficiency and economy to suspend this cancellation proceeding in favor of resolution of the first-filed WDNC Action. *See* 37 CFR § 2.117; TMBP § 510.02 (“Whenever it comes to the attention of the Board that a party or parties to a case pending before it are involved in a civil action which may have bearing on the Board case, proceedings before the Board may be suspended until final termination of the civil action”).

In support of this motion, Respondent has attached the operative pleadings filed in the WDNC Action as Exhibits A-C hereto.

WHEREFORE, Respondent, AVINTIV Specialty Materials Inc. respectfully requests that this proceeding be suspended pending the outcome of U.S. District Court Case No. 3:15-cv-00212-FDW-DSC.

CERTIFICATION OF COMPLIANCE WITH 37 C.F.R. § 2.120(e)

The undersigned counsel for Respondent HEREBY CERTIFIES that Respondent has made a good faith effort to resolve the issues presented in this motion, including email correspondence with opposing counsel. Opposing counsel indicated by reply email on November 3, 2015 that they would not consent to a motion to suspend, but would not file any opposition to the motion.

Dated: November 4, 2015

Respectfully Submitted,

/s/ Sarah Hsia

Sarah C. Hsia
Jason M. Sneed
Neal Hayes
SNEED PLLC
610 Jetton St., Suite 120-107
Davidson, North Carolina 28036

Tel: 704-779-3611
sarah@sneedlegal.com
JSneed@SneedLegal.com
nhayes@sneedlegal.com

*Attorneys for Respondent
AVINTIV Specialty Materials Inc.*

Certificate of Service

Pursuant to C.R.F. §2.111, I hereby certify that a true and correct copy of the foregoing *Motion to Suspend* was served on Petitioner by placing a copy in U.S. Mail, postage prepaid, this 4th day of November, 2015, and addressed to the following:

William G. Barber
Pirkey Barber PLLC
600 Congress Avenue, Suite 2120
Austin, TX 78701
Attorneys for Petitioner

/s/ Neal Hayes

An Attorney for Respondent

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

_____)	
POLYMER GROUP, INC., and)	
PGI POLYMER, INC.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 3:15-cv-212
)	
3M COMPANY and)	
TARGET CORPORATION,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiffs Polymer Group, Inc. (“Polymer Group”), and PGI Polymer, Inc. (“PGI Polymer”), for their Complaint against Defendants 3M Company (“3M”) and Target Corporation (“Target”), pursuant to Rules 7 and 8, Federal Rules of Civil Procedure, allege as follows:

Nature of the Action

1. This Complaint is an action for trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. §§ 1114 and 1125, for violation of the North Carolina Unfair & Deceptive Trade Practices Act, N.C.G.S. § 75-1.1, and for unfair competition and trademark infringement under applicable state law.

Parties

2. Plaintiff Polymer Group is a Delaware corporation with a principal place of business at 9335 Harris Corners Parkway, Suite 300, Charlotte, NC 28269-3818.

3. Plaintiff PGI Polymer is a Delaware corporation with a principal place of business at 9335 Harris Corners Parkway, Suite 300, Charlotte, NC 28269-3818.

4. Plaintiff PGI is a wholly owned subsidiary of Plaintiff Polymer Group.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.