

ESTTA Tracking number: **ESTTA885465**

Filing date: **03/23/2018**

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

Proceeding.	92066804
Applicant	Plaintiff Laurence Grante
Other Party	Defendant Richard Breakspear
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	Yes

Motion for Suspension in View of Civil Proceeding With Consent

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Laurence Grante hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Laurence Grante has secured the express consent of all other parties to this proceeding for the suspension and resetting of dates requested herein.

Laurence Grante has provided an email address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by Email on this date.

Respectfully submitted,
/AnabellaBonfa/
AnabellaBonfa
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03/23/2018

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

LAURENCE GRANTE,
Petitioner,

vs.

RICHARD BREAKSPEAR,
Respondent.

Cancellation No. 92066804

In re Registration No.5264123

CONSENTED MOTION FOR SUSPENSION OF PROCEEDINGS

OR/ALTERNATIVELY, REQUEST TO CONTINUE DEADLINES BY 90 DAYS

Pursuant to C.F.R. Part 2, Rules of Practice Rule 2.117(b)(c) and TBMP §§ 510 and 511 plaintiff Laurence Grante and defendant Richard Breakspear hereby move the Trade Mark Trial and Appeal Board (“Board”) for: 1) An order to grant a suspension of this Trademark action until December 1, 2018 or, alternatively; 2) An order to continue deadlines in the action herein by 90 days due to a pending civil action, in the Superior Court of California, County of Los Angeles Case No. BC648462, in Dept. 50 before the Honorable Teresa A. Beaudet.

The Los Angeles Superior Court Action was filed initially by Respondent herein, Richard Breakspear, and Breaknite, Inc. on January 26, 2017 (a true and correct copy is attached hereto as **Exhibit “A”**) and alleges causes of action for: 1) Breach of Fiduciary Duties; 2) Constructive Fraud; 3) Accounting; 4) Imposition of Constructive Trust; and 5) Breach of Oral Partnership Agreement. On September 7, 2017, Petitioner Laurence Grante herein filed a cross-complaint against Breakspear. The operative cross-complaint is the First Amended Cross-Complaint filed

on October 13, 2017 (a true and correct copy is attached hereto as **Exhibit "B"**) which alleges the following causes of action: 1) Intentional Misrepresentation- Fraud; 2) Breach of Oral Contract; 3) Conversion; 4) Tortious Interference with Prospective Economic Advantage; and 5) Fraudulent Registration of Trademark 15 U.S.C. § 1120; 15 U.S.C. § 1119. A demurrer to the First Amended Cross-Complaint has been filed and is pending hearing on May 14, 2018.

The facts raised in the Los Angeles Superior Court Action, -raise cross-over issues of fact and law as in the current action before this court as they both involve the use and registration of the trademark Thinkup Anger currently being litigated in this action. To avoid duplicate discovery, cost and disparate legal rulings of law and fact, the parties seek to either suspend the current action until after trial of the Los Angeles Superior Court action, or at least continue deadlines in this action by 90 days as the parties have a Mandatory Settlement Conference scheduled on May 22, 2018 in the Los Angeles Superior Court Action which may resolve both actions. A suspension or temporary suspension would benefit both the court and the parties. A trial date on November 7, 2018 and Final Status Conference on October 26, 2018 have been set in the Los Angeles Superior Court action, therefore, suspension until December 1, 2018 would be appropriate in the action herein.

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The parties respectfully request either a suspension to December 1, 2018 or at least a 90 day suspension of deadlines in the current matter. Currently, in this matter, the parties' expert disclosures are due on April 13, 2018 and discovery closes on May 13, 2018. Therefore, continuation of deadlines is necessary.

Dated: March 23, 2018

Respectfully Submitted,

By: /Anabella Q. Bonfa/

Anabella Q. Bonfa

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Counsel for Petitioner

Laurence Grante

Dated: March 23, 2018

Respectfully Submitted,

By: 
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Los Angeles, CA 90025

Phone (310) 576-6161

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on this 23rd day of March 2018, I electronically served the foregoing, **CONSENTED MOTION FOR SUSPENSION OF PROCEEDINGS**
OR/ALTERNATIVELY, REQUEST TO CONTINUE DEADLINE BY 90 DAYS
on the following by forwarding said copy via email to:

Charles M. Coate
Abrams Coate, LLP
12400 Wilshire Blvd., Suite 1060
Los Angeles, CA 90025
Email: ccoate@abramscoate.com

Dated: March 23, 2018

By: /Havaja Frljuckic/

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