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

Proceeding	92073318
Party	Defendant Evlution Nutrition, LLC
Correspondence Address	EVLUTION NUTRITION LLC 4631 JOHNSON ROAD SUITE 1 COCONUT CREEK, FL 33073 UNITED STATES no email provided no phone number provided
Submission	Motion to Suspend for Civil Action
Filer's Name	Carolina L. Musso
Filer's email	latour@irlaw.com
Signature	/Carolina L. Musso/
Date	02/04/2020
Attachments	Motion to Suspend.pdf(93125 bytes) EXHIBIT A2.pdf(1258626 bytes)

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

Cancellation No. 92073318

CELSIUS HOLDINGS, INC.)	
Petitioner)	In re Reg. Nos: 4,634,529;
)	5,420,185 and 5,420,186
v.)	
)	
EVLUTION NUTRITION, LLC,)	
Registrant)	
)	
)	
)	
)	

MOTION TO SUSPEND FOR CIVIL ACTION

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure Rule 510.02 and 37 C.F.R. § 2.117, Registrant, Evlution Nutrition, LLC (“Registrant”), hereby requests that Cancellation Proceeding No. 92073318 (the “Proceeding”) be suspended pending the outcome of civil action Case No. 20-cv-60159-BB, pending before the United States District Court, Southern District of Florida between Registrant and Petitioner, Celsius Holdings, Inc. (“Petitioner”). Registrant believes that the issues set forth in the civil action will have direct bearing on the issues presented in the Proceeding.

Attached as Exhibit A is a true and correct copy of the Civil Complaint and Cover Sheet filed on January 24, 2020, in the United States District Court, Southern District of Florida (the “Complaint”). A copy of the Complaint was served on Petitioner shortly after it was filed with the Court.

The Board may suspend proceedings when the parties are engaged in a civil action that may have a bearing on the case. 37 C.F.R. § 2.117; TBMP § 510.02; *see e.g. Ohanian v. Tekno Products, Inc.*, 2019 WL 3667659 at *1 (TTAB Jan. 25, 2019) (“It is the policy of the Board to

suspend proceedings when the parties are involved in a civil action which may be dispositive of or have a bearing on the Board case”). Here, the same parties to the Proceeding also are parties to the civil action, and the marks involved in both proceedings overlap. Prior to Petitioner’s filing of the Proceeding, Registrant sent Petitioner a letter demanding that it cease and desist use of marks confusingly similar to the registrations at issue here. The parties then commenced settlement negotiations. Petitioner preemptively instituted the Proceeding when it became clear the parties would be unable to resolve their dispute and Registrant would be filing a civil action. In the civil action, Registrant has alleged trademark infringement of the marks Petitioner now seeks to cancel and Petitioner will have the opportunity to present the same arguments in that case as it has here.

As the issues that are the subject of the civil action bear directly on the issues and allegations of the Proceeding, Registrant respectfully requests that the Proceeding be suspended immediately.

Dated: February 4, 2020

Respectfully submitted,

ISICOFF RAGATZ
601 Brickell Key Drive, Suite 750
Miami, Florida 33131
Tel.: (305) 373-3232
Fax: (305) 373-3233

By: /s/Carolina L. Musso
Eric D. Isicoff
Florida Bar No. 372201
Isicoff@irlaw.com
Carolina Latour Musso
Florida Bar No. 032412
Latour@irlaw.com

I hereby certify that a true and complete copy of the foregoing Motion to Suspend for Civil Action has been served on Petitioner's attorney by forwarding said copy on February 4, 2020 via email to: Joel Rothman, Esq. at joel.rothman@sriplaw.com.

Signature /s/Carolina L. Musso

Date February 4, 2020

EXHIBIT A

Explore Litigation Insights

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