

ESTTA Tracking number: **ESTTA1205304**

Filing date: **04/26/2022**

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

Proceeding no.	92078346
Party	Plaintiff Shanti Wines, LLC
Correspondence address	STUART J. WEST WEST & ASSOCIATES, A PC 3050 CITRUS CIRCLE, STE. 207 WALNUT CREEK, CA 94598 UNITED STATES Primary email: trademark@westpatentlaw.com 925-262-2220
Submission	Motion to Suspend for Civil Action
Filer's name	Stuart J. West
Filer's email	court@westpatentlaw.com, trademark@westpatentlaw.com
Signature	/Stuart J. West/
Date	04/26/2022
Attachments	20220426-CompleteMotionToSuspend-SHANT-41001K.pdf(1884471 bytes)

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

In re Registration No. 6351329

For the mark: Shanti Elixirs

Registered: May 18, 2021

-----X		
Shanti Wines, LLC,	:	
	:	
Petitioner,	:	Cancellation No. 92078346
	:	
v.	:	
	:	
Shanti Elixirs, L.L.C.,	:	
	:	
Registrant.	:	
-----X		

**MOTION TO SUSPEND PROCEEDINGS PENDING DISPOSITION OF DISTRICT
COURT ACTION**

Pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a), Petitioner, through its counsel, hereby moves the Board to suspend the above-referenced proceeding (the “TTAB Proceeding”) pending final disposition of Federal district court case No. 4:22-cv-02511-SK, filed April 25, 2022, in the Northern District Court of California. Copies of the complaint and civil cover sheet are attached as Exhibit 1 to allow the Board to determine if the outcome of the civil action will have a bearing on the issues before the Board.

The civil action involves issues in common with those in the above-referenced proceeding before the Board and the decision in the Federal Court will be binding upon the Board, while the Board's decision may not be binding upon the Court. Petitioner is the sole Plaintiff and Registrant is a Defendant in the civil action. In the civil action, Petitioner brought Federal Trademark Infringement claims against Registrant under the Lanham Act in addition to a Request for Refusal to Register, Federal Unfair Competition, CA Trademark Infringement, CA Unfair Competition, Defamation, Public Disclosure of Private Facts. One of the marks at issue in the civil action is the same mark at issue in this cancellation. When parties are involved in a civil action concerning the same marks and issues, the standard procedure of the Board is to suspend its administrative proceedings pending the outcome of the civil action. *New Orleans Louisiana Saints LLC v. Who dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011)(quoting 6 *McCarthy on Trademarks and Unfair Competition* § 32:47 (5th ed. Updated September 2017)).

Petitioner's counsel contacted Registrant's counsel regarding this motion to suspend pending the outcome of the civil action. As of the filing of this motion Registrant's counsel has not yet responded to Petitioner's counsel.

For the reasons mentioned above, Petitioner respectfully requests that the Board suspend the above-referenced proceeding pending the outcome of the civil action referenced above.

Respectfully Submitted,

West & Associates, A PC

/s/ Stuart J. West

Stuart J. West

3050 Citrus Circle, Ste. 207

Walnut Creek, CA 94598

Tel 925-262-2220

Email: court@westpatentlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Motion to Suspend Proceedings Pending Disposition of District Court Action was served this 26th day of April 2022, by sending it via e-mail to counsel for Registrant at RCrandall@mwblawyers.com, swinkler@mwblawyers.com.

/s/ Dawn Callender
Dawn Callender

Exhibit 1

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