

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
GREENBELT DIVISION

PINKBERRY, INC.,

Plaintiff,

v.

YOGIBERRY, INC., et al.

Defendants.

Case No.: RWT 08-cv-02355

JOINT MOTION FOR A STAY

Plaintiff Pinkberry, Inc. (“Pinkberry”) and Defendants Yogiberry, Inc. (“Yogiberry”), Sam’s Park Yogiberry LLC and Federal Plaza Yogiberry LLC (collectively “Defendants”), respectfully move this Court for an Order staying all proceedings in this case. In support of this Request, the Parties state as follows:

1. On March 11, 2008, Yogiberry filed with the United States Patent and Trademark Office (“PTO”) an Intent to Use application for the mark “YOGIBERRY” in connection with its goods and services. On November 3, 2008, an opposition action was asserted by Hanna-Barbera Productions, Inc., a third party to the instant dispute, involving the YOGIBERRY mark. The opposition action is now pending before the Trademark Trial and Appeal Board.

2. In its Original Complaint and Amended Complaint, Pinkberry asserts, among other things, that the YOGIBERRY mark infringes upon Pinkberry’s federally registered trademarks under the Lanham Act.

3. Among other reasons, a stay of all proceedings in this matter will serve the interests of judicial economy and avoid potential conflicting and inconsistent rulings. Specifically, the result of the opposition action before the Trademark Trial and Appeal Board of the PTO may have a direct impact on the issues and claims at stake in this litigation under the doctrines of collateral estoppel and/or res judicata, and may advance the Parties' ongoing settlement discussion.

WHEREFORE, the Parties respectfully request that this Court stay the proceedings for a period of six months to permit the Trademark Trial and Appeal Board of the PTO to adjudicate the opposition action to the application for the YOGIBERRY mark.

/s/
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