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

Proceeding	92066411
Party	Plaintiff Oneida Nation
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Date	12/12/2017
Attachments	2017-12-12 Motion to Resume.pdf(201801 bytes )

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

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ONEIDA NATION,	)	
	)	
Petitioner	)	CANCELLATION NO. 92066411
	)	
v.	)	Registration No. 2,309,491
	)	Serial No. 75/978,733
ONEIDA INDIAN NATION OF NEW YORK	)	Mark: ONEIDA INDIAN NATION
	)	
	)	Registration No. 4,808,677
Registrant.	)	Serial No. 78/978,999
	)	Mark: ONEIDA
	)	
	)	Registration No. 4,813,028
	)	Serial No. 78/978,992
	)	Mark: ONEIDA

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**MOTION TO RESUME**

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Oneida Nation (“Petitioner”) hereby requests that the Board resume proceedings in this matter and enter an appropriate schedule.

Petitioner filed its initial Petition in this matter on June 27, 2016. (P. 1.) On August 14, 2017, Registrant filed its motion to dismiss and suspend. (P. 4.) On September 5, 2017, the Board entered an Order suspending the proceeding pending disposition of the motion to dismiss and extending Petitioner’s deadline to respond to the motion (P. 6 at 1 (“proceedings are suspended pending disposition of the motion”) & n.1 (“Petitioner’s consented motion filed August 23, 2017, to extend time to respond to Registrant’s motion to dismiss is granted. . . . Accordingly, Petitioner’s response is due October 1, 2017.”)).

Petitioner filed its timely response on September 12, 2017. (P. 7, 8.) In order to eliminate the need for the Board to address the various arguments raised in the motion to dismiss, and the

associated delay, Petitioner elected to respond by filing its First Amended Petition. (P. 8.) This mooted the pending motion to dismiss, and Registrant did not file a reply in support of the motion. *See* TBMP § 503.03 (“[P]laintiffs to proceedings before the Board ordinarily can, and often do, respond to a motion to dismiss by filing, inter alia, an amended complaint. If a timely amended complaint is submitted, the original motion to dismiss normally will be moot.”).

As such, there remains nothing for the Board to decide with respect to the motion to dismiss, and the next step in the proceeding should be Registrant’s response to the First Amended Petition. The proceeding, however, has remained suspended for almost three months after Petitioner filed the First Amended Petition. Because there is no reason for this continued suspension and delay, Petitioner requests that the Board resume the proceeding and enter an appropriate schedule setting Registrant’s deadline to answer or otherwise respond to the First Amended Petition and subsequent events.

Respectfully submitted,

Date: December 12, 2017

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## **CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing was served by email on this 12th day of December 2017, upon Registrant at the following email addresses of record:

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