

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EPIC SYSTEMS CORPORATION,

Plaintiff,

v.

YOURCAREUNIVERSE, INC., MEDHOST, INC.
and MEDHOST SOLUTIONS CORP.,

Defendants.

OPINION AND ORDER

15-cv-821-bbc

Plaintiff Epic Systems Corporation is suing defendants Yourcareuniverse, Inc., Medhost, Inc. and Medhost Solutions Corp. for trademark infringement. Defendant Yourcareuniverse, Inc. has filed a motion to stay the lawsuit, but only as to the claims against Yourcareuniverse. Dkt. #21. Yourcareuniverse says that the court should exercise its discretionary authority to stay those claims while plaintiff is pursuing a “trademark opposition proceeding” against Yourcareuniverse before the Trademark Trial and Appellate Board.

There is some merit to the argument that a plaintiff should not be able to proceed simultaneously on two related claims in two separate forums. However, plaintiff says that it has filed a motion before the board to suspend those proceedings until this lawsuit is resolved. Yourcareuniverse does not contradict plaintiff’s argument that there is a presumption in favor of suspending the administrative proceedings while a lawsuit is

pending. Plt.'s Br., dkt. #26, at 4 (citing TBMP Rule 510.02(a) and The Other Telephone Co. v. Connecticut National Telephone Co., 181 U.S.P.Q. (BNA) 125, 126 (T.T.A.B. Feb. 11, 1974)). Obviously, it would make no sense for both this court and the board to stay proceedings while waiting for the other to finish. Yourcareuniverse says in its reply brief that the board recently signaled its intent to issue a decision soon on plaintiff's motion to suspend. I see no reason to stay the claims against Yourcareuniverse until the board makes its decision. If the board denies the motion to suspend, Yourcareuniverse may renew its motion to stay in this court. In that event, Yourcareuniverse should be prepared to explain how it would serve judicial economy to stay the claims against one defendant while allowing the claims against the other defendants to proceed.

ORDER

IT IS ORDERED that the motion to stay filed by defendant Yourcareuniverse, Inc., dkt. #21, is DENIED.

Entered this 4th day of March, 2016.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge