

## In the Supreme Court of Ohio

Newegg, Inc.,	:	
	:	Case No. 2015-0483
	:	
Appellant,	:	
	:	Appeal from the Ohio
v.	:	Board of Tax Appeals
	:	
Joseph W. Testa,	:	
Tax Commissioner of Ohio,	:	
	:	BTA Case No. 2012-234
Appellee.	:	

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**JOINT MOTION TO STAY BRIEFING  
PENDING A RULING ON APPELLEE'S MOTION TO DISMISS  
APPELLANT'S ASSIGNMENTS OF ERROR NUMBERS 1 AND 3 (SIC)**

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Martin I. Eisenstein\* (PHV 1095-2015)  
(\*Counsel of Record)  
Matthew P. Schaefer (PHV 2399-2015)  
BRANN & ISAACSON  
184 Main Street  
P.O. Box 3070  
Lewiston, ME 04243-3070  
Tel. (207) 786-3566  
Fax (207) 783-9325  
Email: [meisenstein@brannlaw.com](mailto:meisenstein@brannlaw.com)  
[mschaefer@brannlaw.com](mailto:mschaefer@brannlaw.com)

AND

Edward J. Bernert (0025808)  
BAKER HOSTETLER  
Capitol Square, Suite 2100  
65 East State Street  
Columbus, OH 43215-4260  
Tel: (614) 462-2687  
Fax: (614) 462-2616  
Email: [ebert@bakerlaw.com](mailto:ebert@bakerlaw.com)

Counsel for Appellant,  
Newegg, Inc.

Mike DeWine (0009181)  
Attorney General of Ohio  
Daniel W. Fausey\* (0079928)  
(\*Counsel of Record)  
Christine T. Mesirow (0015590)  
Assistant Attorneys General  
Office of the Attorney General  
Taxation Section, 25th Floor  
Rhodes Tower  
30 East Broad Street  
Columbus, OH 43215  
Tel. (614) 466-5967  
Fax (614) 466-8226  
[daniel.fausey@ohioattorneygeneral.gov](mailto:daniel.fausey@ohioattorneygeneral.gov)  
[christine.mesirow@ohioattorneygeneral.gov](mailto:christine.mesirow@ohioattorneygeneral.gov)

Counsel for Appellee,  
Tax Commissioner of Ohio

Appellant Newegg, Inc. (“Newegg”) and Appellee Joseph W. Testa, Tax Commissioner of Ohio (“Commissioner”), jointly move pursuant to S.Ct.Prac.R. 4.01(A)(1) to stay briefing in this appeal pending a decision by the Court on the Commissioner’s Motion to Dismiss Appellant’s Assignments of Error Numbers 1 and 3 (sic) (“Motion to Dismiss”).

1. Newegg’s merit brief is currently due on June 30, 2015. (*See Order Returning Case to the Active Docket (May 21, 2015)*).
2. The Commissioner recently filed his Motion to Dismiss Appellant’s Assignments of Error Numbers 1 and 3 (sic) on June 10, 2015.
3. Newegg timely responded and filed its Response in Opposition to the Motion to Dismiss on June 19, 2015.
4. The Commissioner’s Motion to Dismiss is fully-briefed and is pending resolution by the Court.
5. Due to the timing of the Motion to Dismiss, absent a stay of the current merit briefing schedule, the parties may be required to prepare and file their merits briefs before the Court’s resolution of the Motion to Dismiss. The issues addressed in parties’ merits briefing will depend on the Court’s resolution of the Motion to Dismiss. And, if the Court grants the Motion to Dismiss, the parties would expend unnecessary time and expense briefing issues that would no longer be before the Court for resolution on the merits.
6. No prejudice will result to either party from a stay in the briefing schedule while the Court considers the Motion to Dismiss.

For the foregoing reasons, the parties respectfully and jointly request that the Court grant their motion to stay the briefing in this case and enter a new briefing schedule affording Newegg

thirty (30) days from the date the Court enters an order on the Motion to Dismiss to submit its merits brief.

Respectfully submitted,

s/ Edward J. Bernert  
Martin I. Eisenstein\* (PHV 1095-2015)  
(\*Counsel of Record)  
Matthew P. Schaefer (PHV 2399-2015)  
BRANN & ISAACSON  
184 Main Street  
P.O. Box 3070  
Lewiston, ME 04243-3070  
Tel. (207) 786-3566  
Fax (207) 783-9325  
Email: [meisenstein@brannlaw.com](mailto:meisenstein@brannlaw.com)  
[mschaefer@brannlaw.com](mailto:mschaefer@brannlaw.com)

AND

Edward J. Bernert (0025808)  
BAKER HOSTETLER  
Capitol Square, Suite 2100  
65 East State Street  
Columbus, OH 43215-4260  
Tel: (614) 462-2687  
Fax: (614) 462-2616  
Email: [ebernert@bakerlaw.com](mailto:ebernert@bakerlaw.com)

Counsel for Appellant,  
Newegg, Inc.

s/ Christine T. Mesirow (email auth. 6/24/15)  
Mike DeWine (0009181)  
Attorney General of Ohio  
Daniel W. Fausey\* (0079928)  
(\*Counsel of Record)  
Christine T. Mesirow (0015590)  
Assistant Attorneys General  
Office of the Attorney General  
Taxation Section, 25th Floor  
Rhodes Tower  
30 East Broad Street  
Columbus, OH 43215  
Tel. (614) 466-5967  
Fax (614) 466-8226  
[daniel.fausey@ohioattorneygeneral.gov](mailto:daniel.fausey@ohioattorneygeneral.gov)  
[christine.mesirow@ohioattorneygeneral.gov](mailto:christine.mesirow@ohioattorneygeneral.gov)

Counsel for Appellee,  
Tax Commissioner of Ohio

**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the foregoing Joint Motion to Stay Briefing Pending a Ruling on Appellee’s Motion to Dismiss Appellant’s Assignments of Error Numbers 1 and 3 (sic) was sent via the Court’s electronic filing system and served by electronic and U.S. mail to counsel of record for Appellee Tax Commissioner, Daniel W. Fausey and Christine T. Mesirow, Assistant Attorneys General, State of Ohio, 30 East Broad Street, 25th Floor, Columbus, Ohio 43215–3428, on this 24th day of June, 2015.

s/ Edward J. Bernert  
Edward J. Bernert (0025808)  
One of the Attorneys for Appellant  
Newegg, Inc.