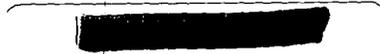


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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application S.N. 75/192,631 in Class 41  
Published September 29, 1998

In the Matter of Application S.N. 75/192,629 in Class 35  
Published July 27, 1999



12-05-2002

U.S. Patent & TMO/TM Mail RcptDt. #33

VIACOM INTERNATIONAL INC.,

Opposer,

-against-

MINATAUR PROMOTIONS  
ENTERPRISES, INC.,

Applicant.

Opposition No. 112,850  
(Consolidated with Opp. No. 112,851)

In the Matter of Registration No. 2,317,477 in Class 41  
Registered: February 15, 2000

VIACOM INTERNATIONAL INC.,

Petitioner,

-against-

MINATAUR PROMOTIONS  
ENTERPRISES, INC.,

Registrant.

Cancellation No. 41,048

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UNITED STATES PATENT AND TRADEMARK OFFICE

**VIACOM'S MOTION TO CONSOLIDATE PROCEEDINGS**

Petitioner/Opposer Viacom International Inc. ("Viacom"), by and through its undersigned attorneys, respectfully requests that the Board consolidate the above-captioned proceedings for the following reasons:

1. The Oppositions

On January 27, 1999, Viacom filed Opposition No. 112,850 opposing application Serial No. 75-192629 of Minataur Promotions Enterprises, Inc. ("Minataur") for the mark CHANNEL M in Class 35 for "dissemination of advertising matter; providing television advertising for others; advertising for others via an on-line electronic communication network dissemination of; business management planning; production and distribution of radio and television commercials; services relating to promotional campaigns and events, namely, development and dissemination of advertising matter, samples or promotional products" and Opposition No. 112,851 opposing Minataur's application Serial No, 75-192630 for the CHANNEL M mark in Class 41 for "production and distribution of motion pictures; and television scheduling (programming)."

Because both oppositions are based on Viacom's rights in its MTV mark and because the issues raised by the oppositions are related, the parties stipulated to consolidate the Oppositions. Consolidation was so ordered by the Board on November 22, 2002 (the consolidated Oppositions are hereinafter referred to as the "Consolidated Proceeding"). In its November 22, 2002 order, the Board scheduled the close of discovery in the Consolidated Proceeding for January 31, 2003. Because the parties are actively discussing settlement of the Consolidated Opposition (as well as the below-referenced Cancellation), the parties have agreed to extend the deadlines in the Consolidated Opposition by 30 days (a motion on consent is filed concurrently herewith), making the close of discovery March 2, 2003.

2. The Cancellation

On September 3, 2002, Viacom filed a petition to cancel Minataur's Registration No. 2,317,477 for the mark CHANNEL M in Class 41 for "production and distribution of radio and television programs; and television scheduling (programming)" (the "Cancellation"). At the time

the parties filed their stipulated motion to consolidate the Oppositions, the Cancellation had not yet been instituted by the Board and Minataur.

3. Request for Consolidation

On September 26, 2002, the Board instituted the Cancellation and Viacom now moves to consolidate the Cancellation with the Consolidated Proceeding. Minataur's Registration No. 2,317,477; the registration at issue in the cancellation, is for the mark CHANNEL M for "production and distribution of radio and television programs; and television scheduling (programming)." The Registration is virtually identical to Minataur's application Serial No, 75-192630 for the CHANNEL M mark in Class 41 for "production and distribution of motion pictures; and television scheduling (programming)" that is at issue in the Consolidated Proceeding. In addition, Viacom's basis for its petition to cancel the registration is identical to the basis set forth in the Consolidated Proceeding.<sup>1</sup> Thus, the parties to the Cancellation and the Consolidated Proceeding are the same; the marks in both proceedings are identical; the services at issue in the proceedings are nearly identical; and the grounds for challenging all three of Minataur's CHANNEL M applications/registration are identical.

Where, as here, the cases all involve common questions of law and fact, consolidation is appropriate. See Fed. R. Civ. P. 42(a); Regatta Sport Ltd. v. Telux-Pioneer Inc., 20 U.S.P.Q.2d 1154 (TTAB 1991). Moreover, consolidation will save both the Board and the parties time, effort and expense. World Hockey Ass'n v. Tudor Metal Products Corp., 211 U.S.P.Q. 724 (TTAB 1981). As Minataur has not yet filed its answer in the Cancellation, or its answer to

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<sup>1</sup> The only difference in the pleadings is that in the Cancellation, Viacom asserts the added basis that the registration has been abandoned.

Opposition No. 112,850 (one of the Oppositions),<sup>2</sup> consolidation will not cause prejudice or inconvenience to Minataur. Consolidation will save the parties the significant time, effort and expense associated with multiple proceedings.

In order to further ensure that no prejudice will result from the proposed consolidation, Viacom does not object to the consolidated proceeding following the schedule set by the Board in the Cancellation by its order of September 26, 2002.

Dated: New York, New York  
December 5, 2002

"Express Mail" mailing label No. EL 57855 3425 45      Respectfully submitted,

Date of Deposit December 5, 2002

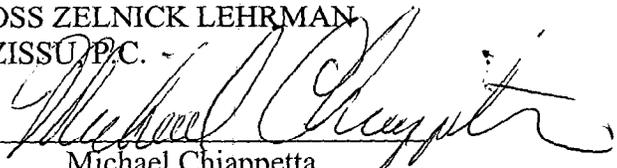
I hereby certify that this paper or fee is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.

VALERIE MASON  
(Printed name of person mailing paper or fee)

Valerie Mason  
(Signature)

FROSS ZELNICK LEHRMAN  
& ZISSU, P.C.

By:

  
Michael Chiappetta

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New York, New York 10017  
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<sup>2</sup> Viacom has twice granted Minataur's requests for extensions of time to file an answer in the Cancellation (Minataur's present deadline to file an answer is January 4, 2002) and once granted Minataur's request for an extension of time to file an answer in Opposition No. 112,850 (Minataur's present deadline to file an answer is January 21, 2002).

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing VIACOM'S MOTION TO CONSOLIDATE PROCEEDINGS was served by first class mail, postage prepaid on the following counsel of record:

Dory Choderker  
RUSS, AUGUST & KABAT  
12424 Wilshire Boulevard  
Suite 1200  
Los Angeles, California 90025

Executed this 5<sup>h</sup> day of December, 2003.

  
\_\_\_\_\_  
Valerie Mason

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