

TTAB

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



REDSKY SECURITIES, LLC, )  
Opposer, )  
 )  
-against- )  
 )  
REDSKY PARTNERS, LLC, )  
Applicant. )

01-10-2003  
U.S. Patent & TMO/TM Mail Rcpt Dt. #76  
Opposition No. 91 153,164

AGREED MOTION TO CONSOLIDATE

Box TTAB NO FEE  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

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JAN 10 2003

RedSky Securities, LLC ("Opposer") and RedSky Partners, LLC ("Applicant")  
move the Trademark Trial and Appeal Board for consolidation of the above-captioned  
Opposition proceeding with pending Opposition No. 91 152,607 for purposes of pre-trial and  
trial proceedings.

As grounds for consolidation, it is alleged that:

I hereby certify that this correspondence (along with any paper referred to as being  
attached or enclosed) is being deposited with the United States Postal Service with  
sufficient postage as First Class Mail in an envelope addressed to: Assistant  
Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513 on

07 January 2003.

07 Jan 03  
Date

Eric Kruschke  
Signature

Handwritten mark

Opposition No. 91 153,164

1. Opposer filed a Notice of Opposition on 02 August 2002 to U.S. Service Mark Application Serial No. 78/086,328, seeking registration of the mark REDSKY (stylized) for “financial services, namely management and operation of investment funds” in International Class 036, filed by Applicant on 01 October 2001 (“filing date”), based upon Applicant’s alleged intent to use the mark. (Opposition No. 91 153,164).

2. Opposer filed a Notice of Opposition on 07 August 2002 to related U.S. Service Mark Application Serial No. 78/086,776, seeking registration of the mark RED SKY (block letter form) for “financial services, namely management and operation of investment funds” in International Class 036, filed by Applicant on 03 October 2001 (“filing date”), based upon Applicant’s alleged intent to use the mark. (Opposition No. 91 152,607).

3. Except for those preliminary portions of the Notices which refer to a particular one of Applicant’s applications, the alleged grounds for the Oppositions are substantially identical in each of Opposition No. 91 153,164 and Opposition No. 91 152,607.

4. 37 C.F.R. § 2.116(a) provides that procedure and practice in inter partes (trademark) proceedings shall be governed by the Federal Rules of Civil Procedure wherever applicable and appropriate and except as otherwise provided.

5. FED. R. CIV. P. 42(a) provides that when actions involving a common question of law or fact are pending before the court, that court may order the actions consolidated.

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6. The Rules of Practice in trademark cases, as set forth in 37 C.F.R. Part 2, do not otherwise provide for motions to consolidate pending proceedings.

7. The parties agree to consolidate the two Opposition proceedings and adopt the discovery and testimony periods as set forth in the Communication dated 21 October 2002 from the Trademark Trial and Appeal Board in reference to Opposition No. 91 153,164 wherein the following periods are set forth.

Discovery period to open: November 10, 2002

Discovery period to close: May 09, 2003

30-day testimony period for party  
in position of plaintiff to close: August 07, 2003

30-day testimony period for party  
in position of defendant to close: October 06, 2003

15-day rebuttal testimony period  
for plaintiff to close: November 20, 2003

8. Reading FED. R. CIV. P. 42(a) in light of 37 C.F.R. § 2.116(a), a motion to consolidate the actions is proper and should be granted.

WHEREFORE, the parties respectively move for the consolidation of the above Opposition proceedings and adoption of the discovery and testimony periods as set forth in Opposition No. 91 153,164 and shown above.

Opposition No. 91 153,164

Date: 07 January 2003

Respectfully submitted,



Eric T. Krischke  
Attorney for Opposer

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Opposition No. 91 153,164

**CERTIFICATE OF SERVICE**

I, Eric T. Krischke, hereby certify that I caused the foregoing **AGREED MOTION TO CONSOLIDATE** to be served via U.S. Mail, first class postage pre-paid, to:

L. Donald Prutzman, Esq.  
**TANNENBAUM HELPERN SYRACUSE & HIRSCHTRITT LLP**  
900 Third Avenue  
New York, New York 10022  
Telephone: 212.508.6700  
Facsimile: 212.371.1084

this 07<sup>th</sup> day of January, 2003.

  
\_\_\_\_\_  
Eric T. Krischke