

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: September 20, 2003

Opposition Nos. 91-155,185
91-155,341
91-155,380
91-155,383
91-155,410
91-155,423
91-155,445
91-155,474
91-155,574

PUMPERNICKEL ASSOCIATES

v.

SARA LEE DE/N.V.

Peter Cataldo, Interlocutory Attorney

Applicant's consented motion, filed on August 29, 2003, for consolidation of the above referenced proceedings is hereby granted as indicated below.

When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. See Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation,

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against any prejudice or inconvenience which may be caused thereby. *See, for example, Wright & Miller, Federal Practice and Procedure: Civil 2d §2383 (1999); and Lever Brothers Co. v. Shaklee Corp., 214 USPQ 654 (TTAB 1982).* Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, for example, Hilson Research Inc. v. Society for Human Resource Management, 27 USPQ2d 1423 (TTAB 1993); and Regatta Sport Ltd. v. Telux-Pioneer Inc., 20 USPQ2d 1154 (TTAB 1991).*

Inasmuch as the parties to the instant proceedings are identical and the issues are substantially the same, the above referenced Oppositions are hereby consolidated.

The consolidated cases may be presented on the same record and briefs. *See Hilson Research Inc. v. Society for Human Resource Management, supra; and Helene Curtis Industries Inc. v. Suave Shoe Corp., 13 USPQ2d 1618 (TTAB 1989).*

The Board file will be maintained in Opposition No. 115,914 as the "parent" case. As a general rule, from this point on only a single copy of any paper or motion should be filed herein; but that copy should bear all nine (9) proceeding numbers in its caption. Exceptions to the

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general rule involve stipulated extensions of the discovery and trial dates, and briefs on the case. See Trademark Rules 2.121(d) and 2.128.

Despite being consolidated, each proceeding retains its separate character and requires entry of a separate judgment. See Wright & Miller, *Federal Practice and Procedure, supra*. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings; a copy of the decision shall be placed in each proceeding file.

The closing dates of the discovery and testimony periods in these consolidated proceedings are reset as requested in applicant's consented motion to consolidate.

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