



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

BIG O TIRES, INC.,)

Opposer,)

v.)

SUNRISE INCORPORATED,)

Applicant.)

78115902
Opposition No. 91157113

CONSENTED MOTION TO CONSOLIDATE AND EXTEND

COMES NOW the Opposer, Big O Tires, Inc., by and through counsel, and pursuant to Rule 42(a) of the Federal Rules of Civil Procedure and TBMP §511, respectfully requests that the Trademark Trial and Appeal Board (“Board”) consolidate several pending proceedings and to extend the consolidated proceeding while the parties continue settlement discussions.

Applicant’s counsel has consented to this request.

In support of this Motion, Opposer states as follows.

Procedural Background

Opposer has initiated the following proceedings involving the same parties and marks:

Proceeding Number	Mark	Status
91157113	BIG O	<i>Active.</i> Discovery open.
91157442	BIG O	<i>Active.</i> Discovery open.
91161235	BIG O	<i>Active.</i> Discovery open.

The parties have been engaged in settlement discussions. Various draft proposals have been exchanged between the parties. Since Opposer’s last proposal, Opposer’s counsel has contacted Applicant’s counsel on numerous occasions seeking a reaction from Applicant (located in Japan).

On March 19, 2007, Applicant's counsel sent an email indicating that she would be "sending the proposed final settlement agreement in the near future." Due to confidentiality concerns, Opposer's counsel would rather not detail the precise terms that have been agreed upon and those that remain outstanding. Nevertheless, Opposer's counsel understands that the number of disputed terms has been greatly narrowed, if not resolved.

Discussion

Good cause exists for this consolidation request since the proceedings involve common questions of law and fact. As an initial matter, there is an identity of parties, counsel and marks. Moreover, the proceedings share the same procedural posture, namely, the discovery period has not yet closed. Furthermore, the anticipated witnesses would almost certainly be identical in all proceedings. Finally, there would likely be significant overlap in the parties' document production. In essence, consolidation would afford efficiency to the parties and the Board without prejudicing either party.

The parties request that, after consolidation, the one consolidated proceeding be extended by sixty (60) days to allow the parties to focus their efforts on settlement.

In light of the above, it is respectfully submitted that all proceedings should be consolidated under parent proceeding No. 157,113; and the consolidated proceeding be extended for sixty (60) days.

Respectfully submitted,

BIG O TIRES, INC.

By: _____


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Dated: March 23, 2007
Atty. Dkt. 11386/I-4799 et al.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of March, 2007, I have caused a true and correct copy of the foregoing CONSENTED MOTION TO CONSOLIDATE AND EXTEND to be served by first-class mail, postage prepaid, upon counsel for Applicant:

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