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

Proceeding	91159137
Party	Plaintiff THRESHOLD ENTERPRISES LTD. Threshold Enterprises, Ltd. 23 Janis Way Scotts Valley, CA 95066 UNITED STATES
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Date	07/10/2004
Attachments	21436consolidate.pdf (1 page) 21436consol1.pdf (1 page) 21436consol2.pdf (1 page) 21436consol3.pdf (1 page) 21436consol4.pdf (1 page)

TRADEMARKS
Attorney Docket 21436

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

In the Matter of U.S. Application Serial No. 76/504,365
For: NATURAL SOURCE and Design
Filed: April 8, 2003
Date of Publication: December 2, 2003

THRESHOLD ENTERPRISES, LTD.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 159,137
	)	
NATURAL SOURCE INTERNATIONAL, LTD.	)	
	)	
Applicant.	)	

MOTION TO CONSOLIDATE

Pursuant to Rule 42(a) the Federal Rules of Civil Procedure and TBMP Section 511, opposer THRESHOLD ENTERPRISES, LTD. respectfully requests that this Opposition No. 159,137 be consolidated with the related, pending Opposition No. 159,361.

Argument

Consolidation is appropriate, because the parties are identical in both proceedings, both proceedings involve common questions of law or fact, and consolidation will avoid duplication of effort concerning the common issues at hand thereby avoiding unnecessary costs and delays for the parties.

Neither party will be prejudiced or inconvenienced by this consolidation.

The parties to each opposition are the opposer Threshold Enterprises Ltd. ("Threshold") and the applicant Natural Source International Ltd. ("NSI"). Threshold has asserted in both oppositions that its trademark and trade name "SOURCE NATURALS" will be harmed by the registration of NSI's mark; NSI's marks in question are similar: "NATURAL SOURCE and Design" in Opposition No. 159,137 and "SOURCED FROM NATURE...PERFECTED BY SCIENCE" in Opposition No. 159,361.

The procedural posture of these two oppositions favors consolidation at this time. In each opposition, NSI failed to timely file its Answer and Threshold filed a Memorandum in Opposition to Applicant's Motion for Leave to File Late Answer. In this Opposition No. 159,137, the Board has granted NSI's request for leave to file its late Answer; in the related Opposition No. 159,361, the Board has suspended proceedings pending the disposition of the Motion for Leave to File Late Answer. Shortly after Threshold filed its two Memorandums in Opposition to Applicant's Motion for Leave to File Late Answer, NSI served extensive discovery requests on Threshold in each opposition. These requests are virtually identical, seeking the exact same information and

documentation from Threshold for each opposition. The only difference between the discovery sought in each opposition is that NSI's mark is defined as "NATURAL SOURCE and Design" in Opposition No. 159,137; and it is defined as "SOURCED FROM NATURE...PERFECTED BY SCIENCE" in Opposition No. 159,361. It is clear from NSI's discovery requests that the questions of fact and law overlap extensively between these two oppositions.

Finally, in view of the fact that proceedings have been suspended in Opposition No. 159,361, Threshold respectfully requests that the proceedings in Opposition No. 159,137 be suspended, as well, including all discovery matters. Once the Motion for Default Judgment is decided for Opposition No. 159,361, suspension of both proceedings may be lifted.

If the Motion for Leave to File Late Answer is not granted in Opposition No. 159,361, then Opposition No. 159,137 will proceed on its own. If it is granted, the two oppositions will move forward as one consolidated proceeding. NSI will not be prejudiced by delaying discovery in Opposition No. 159,137 until the Board decides the motion pending in Opposition No. 159,361. Threshold will be spared the time and expense of providing duplicate responses to NSI's extensive discovery requests.

Conclusion

In view of the foregoing argument and explanation, Threshold respectfully requests that Opposition Nos. 159,137 and 158,361 be consolidated. As a result proceedings in Opposition No. 159,137 also will be suspended until the Board decides the Motion for Leave to File Late Answer currently pending in Opposition No. 159,361.

Date: July 10, 2004

Respectfully submitted,

THRESHOLD ENTERPRISES, LTD.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO CONSOLIDATE was served on the applicant by First Class Mail this 10th day of July, 2004, addressed to:

Jacqueline Levasseur Patt
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Washington, D.C. 20004-1601
Attorney for Applicant

By: Mary Catherine Merz

Opposition No. 159,137
Motion to Consolidate

CERTIFICATE OF ELECTRONIC MAILING

Date of Electronic Filing: July 10, 2004

I hereby certify that this correspondence is being filed on the date indicated above and is addressed to the Commissioner For Trademarks, Box TTAB - NO FEE, 2900 Crystal Drive, Arlington, Virginia 22202-3513 at http://estta.uspto.gov.

(1) MOTION TO CONSOLIDATE

Mary Catherine Merz

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