

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

dmd/Dunn
Mailed: January 9, 2006

Opposition No. 91164500
Opposition No. 91164705

Puppuccino, Inc.

v.

Lynette M. Thorlakson

Elizabeth A. Dunn, Attorney:

This case comes before the Board on opposer's motion to consolidate Opposition Nos. 91164500 and 91164705, filed June 28, 2005 in both proceedings. The motion is fully briefed.

In Opposition No. 91164705, Puppuccino, Inc. opposes registration of the marks CATPUCCINO (application Serial No. 78324909) and CHIRPPUCCINO (application Serial No. 78324924) for "pet foods", and in Opposition No. 91164705 Puppuccino, Inc. opposes registration of the mark PUPPUCCINO, also for "pet foods" (application Serial No. 78315477). Both oppositions are based on opposer's claims of priority and likelihood of confusion.

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In support of its motion, opposer argues that the parties are the same and the two oppositions involve common issues. In opposition to consolidation, applicant argues that the differences in the marks will require a different analysis by the Board. While the marks are not identical, they each feature the term "PUCCINO" and are applied to identical goods. The separate analyses required by the three different marks does not require separate proceedings which would feature overlapping evidence regarding the common term PUCCHINO and the identical goods. Thus we agree with opposer that judicial economy is best served by the consolidation of proceedings. Accordingly, because the parties are the same, and the two proceedings involve common issues of law and fact, opposer's motion to consolidate is granted, Opposition Nos. 91164500 and 91164705 are consolidated, and may be presented on the same record and briefs.¹ See Fed. R. Civ. P. 42(a) and TBMP §511 (2nd ed., rev. 2004).

The stipulated protective agreement filed on June 17, 2005 in both proceedings (and already acknowledged in Opposition No. 91164705) is noted. The parties are referred, as appropriate, to TBMP §§412.03 (Signature of Protective

¹ The Board file will be maintained in Opposition No. 91164500 as the "parent" case, but all papers filed herein must include the proceeding numbers of both cases in ascending order.

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Order), 412.04 (Filing Confidential Materials With Board), 412.05 (Handling of Confidential Materials by Board).²

On October 19, 2005, opposer's attorney filed a request to withdraw as opposer's counsel of record in this case in both proceedings. The request to withdraw as counsel is in compliance with the requirements of Trademark Rule 2.19(b) and Patent and Trademark Rule 10.40, and is accordingly granted. The Intellect Law Group no longer represents opposer in this proceeding.

In view of the withdrawal of opposer's counsel, and in accordance with standard Board practice, proceedings herein are suspended, and opposer is allowed until thirty days from the mailing date of this order to appoint new counsel, or to file a paper stating that opposer chooses to represent itself. If opposer files no response, the Board may issue an order to show cause why default judgment should not be entered against opposer based on opposer's apparent loss of interest in the case.

The parties will be notified by the Board when proceedings are resumed, and dates will be rescheduled at the appropriate time.

² The parties are advised that only confidential or trade secret information should be filed pursuant to a stipulated protective agreement. Such an agreement may not be used as a means of circumventing paragraphs (d) and (e) of 37 CFR § 2.27, which provide, in essence, that the file of a published application or issued registration, and all proceedings relating thereto, should otherwise be available for public inspection.

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A copy of this order has been sent to all persons listed below.

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