

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

vb

Mailed: December 10, 2009

Opposition No. 91171281

(parent case)

Opposition No. 91171283

Opposition No. 91171284

Opposition No. 91173117

Opposition No. 91173118

Opposition No. 91186414

Opposition No. 91191995

PomWonderful LLC

v.

Jarrow Formulas, Inc.

Jennifer Krisp, Interlocutory Attorney:

Consolidation

Opposer's consented motion (filed December 7, 2009) to consolidate Opposition No. 91191995 with all currently consolidated oppositions is hereby granted.¹ See Trademark Rule 2.127(a).

Opposition No. 91191995 is hereby consolidated into consolidated Opposition No. 91171281. The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d

¹ 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); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board proceeding file will continue to be maintained in Opposition No. 91171281 as the "parent" case. As a general rule, from this point on, only a single copy of all papers and motions should be filed in the parent case, and should caption all of the consolidated proceedings, listing the parent case first.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings, and a copy of the decision shall be filed in each proceeding.

Suspension and Schedule

The parties' consented motion (filed December 7, 2009) for suspension of these proceedings for 60 days for settlement, is hereby granted.

All of the consolidated proceedings, with the exception of Opposition Nos. 91186414 and 91191995, are governed by the Trademark Rules of Procedure that were in place prior to November 1, 2007; Opposition Nos. 91186414 and 91191995 are governed by the Trademark Rules of Procedure, as amended. *See Miscellaneous Changes to Trademark Trial and Appeal Board Rules*, 72 Fed. Reg. 42242 (Aug. 1, 2007) ("Notice of Final Rulemaking").

Proceedings are now suspended, will resume on February 12, 2010 without further notice or order from the Board, and shall thereafter proceed, in the absence of settlement, in accordance with the following expert disclosure, discovery and trial schedule:²

Expert Disclosures Due	3/24/2010
Discovery Closes	4/23/2010
Plaintiff's Pretrial Disclosures	6/7/2010
Plaintiff's 30-day Trial Period Ends	7/22/2010
Defendant's Pretrial Disclosures	8/6/2010
Defendant's 30-day Trial Period Ends	9/20/2010
Plaintiff's Rebuttal Disclosures	10/5/2010
Plaintiff's 15-day Rebuttal Period Ends	11/4/2010

In each instance, a copy of the transcript of testimony, together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

² The Board acknowledges that the parties have been and are presently discussing settlement, and that their first motion to consolidate was filed during the discovery period as initially set in the parent case under the pre-November 2007 Rules of Procedure. Therefore, the Board waives the parties' requirement to hold a discovery conference and to serve initial disclosures. However, by operation of the reset trial schedule noted herein, the parties are expected to adhere to the trial obligations that are required of all parties to proceedings that are filed post-November 2007.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.