

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

Mailed: May 16, 2007

Opposition Nos. 91173873 (parent)
91173874

Levi Strauss & Co.

v.

Seattle Pacific Industries, Inc.

**Robert H. Coggins,
Interlocutory Attorney:**

This case now comes up on applicant's motion to consolidate Opposition Nos. 91173873 and 91173874 (filed December 19, 2006 in Opposition No. 91173874), and applicant's motions to suspend proceedings pending determination of the motion to consolidate (filed December 19, 2006 in Opposition Nos. 91173873 and 91173874).¹

Motion to Consolidate

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, Wright & Miller, Federal Practice and Procedure: Civil* §2383 (2004);

¹ Applicant's answers (filed December 19, 2006 in each opposition) are noted.

Opposition Nos. 91173873

S. Industries Inc. v. Lamb-Weston Inc., 45 USPQ2d 1293, 1297 (TTAB 1997) (motion).

The Board has reviewed the records in both cases, and concludes that Opposition Nos. 91173873 and 91173874 involve the same parties and common questions of law and fact. It would therefore be appropriate to consolidate these proceedings pursuant to Fed. R. Civ. P. 42(a). Moreover, it does not appear that opposer filed a brief in opposition to the motion.

Accordingly, applicant's motion to consolidate is granted as conceded. Trademark Rule 2.127(a). The above-noted opposition proceedings are hereby consolidated and may be presented on the same record and briefs.

The Board file will be maintained in Opposition No. 91173873 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding. Only a single copy of each paper should be filed by the parties and each paper should bear the case caption as set forth above.

Motions to Suspend

It does not appear that opposer filed briefs in opposition to applicant's motions to suspend proceedings pending determination of the motion to consolidate. Accordingly, applicant's motions are granted as conceded, *nunc pro tunc*. Trademark Rule 2.127(a).

Discovery and Trial Dates

Notwithstanding the *nunc pro tunc* grant hereinabove of applicant's motions to suspend, proceedings are resumed. In accordance with the Trademark Rules of Practice, discovery is open. The close of discovery and trial dates are reset as follows:

Discovery period to close:	11/16/07
30-day testimony period for party in position of plaintiff to close:	2/14/08
30-day testimony period for party in position of defendant to close:	4/14/08
15-day rebuttal testimony period to close:	5/29/08

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.

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.
