

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

BDB

Mailed: October 24, 2007

Opposition Nos. 91179290
91179352

McDonald's Corporation

v.

Patchell Holdings Inc.

(as consolidated)

Angela Lykos, Interlocutory Attorney

On September 21, 2007, opposer filed a motion to consolidate. That motion is unopposed.

On October 2, 2007, the parties filed stipulated motions to extend applicant's time to file an answer in the two opposition proceedings captioned above.

Turning first to opposer's motion to consolidate, for the reasons set forth below, the Board orders consolidation of the above referenced proceedings.

When cases involving common questions of law or facts are pending before the Board, the Board may order, upon its own initiative or upon motion, the consolidation of the cases. See Fed. R. Civ. P. 42(a) and Trademark Trial and

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Appeal Board Manual of Procedure § 511 (TBMP) and authorities cited therein (2d ed. rev. 2004).

A review of the pleadings in the above identified opposition proceedings indicates that the parties are the same, and the proceedings involve common questions of law and fact. As a result, these proceedings may be presented on the same record and briefs without appreciable inconvenience or confusion. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993). Moreover, the consolidation would be equally advantageous to those parties in the avoidance of duplication of effort, loss of time, and the extra expense involved in conducting the proceedings individually.

Therefore, by this order, Opposition Nos. 91179290 and 91179352 are hereby consolidated. Consequently, the parties' future submissions should be captioned in the above manner.

The Board file will be maintained in Opposition No. 91179290 as the "parent" case. As a general rule, only a single copy of any paper or motion should be filed herein; but that copy should bear all three proceeding numbers in its caption. Exceptions to the general rule involve stipulated extensions of the discovery and trial dates, see

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Trademark Rule 2.121(d), and briefs on the case, see Trademark Rule 2.128.

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; a copy of the decision shall be placed in each proceeding filed.

The parties are further advised that they are to inform the Board in any subsequent oppositions or cancellations are instituted which involve the same parties in the same issues.

Continuing, the parties' consented motion to extend the time for applicant to file its answer to the notice of opposition is also granted. Accordingly, applicant's answer is now due November 16, 2007, and since the cases are now consolidated, trial dates remain as set in the Board's institution order in Opposition No. 91179352, the later filed opposition.

NEWS FROM THE TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

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By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>