

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

BDB

Mailed: January 22, 2008

Opposition No. 91180742

Cancellation No. 92048446

Dr Pepper/Seven Up, Inc.

v.

Krush Global Limited

Brian D. Brown, Interlocutory Attorney

On November 28, 2007, opposer/petitioner filed a motion to consolidate. That motion is unopposed. For the reasons set forth below, the Board hereby 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 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 and cancellation proceedings indicates that the parties are the same, and the proceedings involve common questions of law and fact. In addition, the issues and the pleadings in the respective proceedings appear to be

substantially similar. Likewise, the grounds for opposition as well as cancellation emanate the same set of registered marks owned by opposer/petitioner.

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 both 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 No. 91180742 and Cancellation No. 92048446 are hereby consolidated. Consequently, the parties' future submissions should be captioned in the above manner.

The Board file will be maintained in Opposition No. 91180742 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 the two proceeding numbers in its caption.

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. Lastly, since the cases are now consolidated, trial dates remain as set in the Board's institution order in Cancellation No. 91180742.

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

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>