

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

EJW

Mailed: April 10, 2008

Opposition No. 91181380

Opposition No. 91181381

Opposition No. 91181383

Opposition No. 91181384

Opposition No. 91181385

Opposition No. 91181386

Opposition No. 91181388

E. & J. GALLO WINERY

v.

MIMULANI AG

Elizabeth J. Winter, Interlocutory Attorney:

On January 28, 2008, opposer filed a consented motion to consolidate this proceeding, Opposition No. 91181380, with six other opposition proceedings pending before the Board between the same parties, namely, 91181381, 91181383, 91181384, 91181385, 91181386, and 91181388.

On review of the seven notices of opposition, the Board notes that in each proceeding listed above, opposer brings the same claims of priority, likelihood of confusion, dilution, and lack of *bona fide* intent to use the involved mark in commerce (since at least as early as the filing date of the involved application) in connection with opposer's same nineteen pleaded

Opposition Nos. 91181380, 91181381, 91181383, 91181384, 91181385, 91181386 and 91181388

registered marks and common law usage of its various marks, against applicant's pending trademark applications, Serial Nos. 78877425, 78877442, 78877443, 78877447, 78877450, 78877453 and 78877459, respectively, for marks containing the term "GALLISS". In each case, applicant has filed an answer denying the salient allegations of the notice of opposition.

Because the parties are the same and the seven proceedings involve common issues of law and fact, the Board believes that the interest of judicial economy will be served by consolidation of Opposition Nos. 91181380, 91181381, 91181383, 91181384, 91181385, 91181386, and 91181388. See Fed. R. Civ. P. 42(a) and TBMP § 511 (2nd ed. rev. 2004).

Accordingly, opposer's consented motion to consolidate is granted as well taken. *Id.* Opposition Nos. 91181380, 91181381, 91181383, 91181384, 91181385, 91181386, and 91181388 may be presented on the same records and briefs. The record will be maintained in **Opposition No. 91181380** as the "parent" case, but all papers filed in these cases should include all seven proceeding numbers in ascending order. *Id.*

Inasmuch as all seven proceedings were instituted with the same trial schedule, dates remain as set in the Board's institution order mailed January 28, 2008.

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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>