

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

Mailed: April 11, 2008

Opposition Nos. 91182532
91182537
91182538
91182539
91182540
91182542
91182543

Lorillard Licensing Company,
LLC

v.

Trademarks LLC

Linda Skoro, Interlocutory Attorney

On March 28, 2008, applicant filed a motion to consolidate the above-identified proceedings. A review of the pleadings in these cases reveals that they 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). Accordingly, 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. 91182532 as the "parent" case. Currently, the parent proceeding, as well as the "child" proceedings, have a motion to dismiss, or to partially dismiss opposer's

allegation of dilution. The motion to partially dismiss is being treated as a motion to strike the allegations directed to dilution.

The basis of applicant's motion is that the notice of opposition fails to allege facts sufficient to plead dilution, specifically that its NEWPORT mark became famous before applicant filled its application for the mark L&M and that applicant's mark is likely to cause dilution of opposer's mark. In response, opposer essentially admitted applicant's objections and filed an amended notice of opposition.

A review of the original notice of opposition supports applicant's position, finding a few paragraphs insufficient to state a claim for dilution. Accordingly, applicant's motion to strike is hereby GRANTED, but opposer's response and amended notice is being treated as a motion to amend and is also hereby GRANTED. Accordingly, opposer's amended notice of opposition is now of record. Respondent has THIRTY days to file its answer in each of the individual proceedings, despite their consolidation. In the future, only one copy of filings need be entered into the parent proceeding.

Trial dates are reset as indicated below:

Time to Answer

May 11, 2008

Deadline for Discovery Conference	June 10, 2008
Discovery Opens	June 10, 2008
Initial Disclosures Due	July 10, 2008
Expert Disclosures Due	November 7, 2008
Discovery Closes	December 7, 2008
Plaintiff's Pretrial Disclosures	January 21, 2009
Plaintiff's 30-day Trial Period Ends	March 7, 2009
Defendant's Pretrial Disclosures	March 22, 2009
Defendant's 30-day Trial Period Ends	May 6, 2009
Plaintiff's Rebuttal Disclosures	May 21, 2009
Plaintiff's 15-day Rebuttal Period Ends	June 20, 2009

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.

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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>

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