

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

Mailed: May 19, 2008

Opposition No. 91183196
Opposition No. 91183698

Board of Regents, The
University of Texas System

v.

Southern Illinois Miners, LLC

Elizabeth J. Winter, Interlocutory Attorney:

These cases now come up on opposer's consented motions, filed May 5, 2008 in both Opposition Nos. 91183196 and in 91183698, to consolidate the above-captioned proceedings and to extend applicant's deadline to file and serve its answer.¹

The Board may, in its discretion, order cases consolidated prior to joinder of issue. See Trademark Rule 2.104(b), 37 C.F.R. § 2.104(b); TBMP § 511 (2d ed. rev. 2004). On review of the notices of opposition, the Board notes that in each proceeding listed above, opposer brings the same claims of likelihood of confusion and dilution, in connection with its pleaded registered MINERS marks (U.S. Reg. Nos. 1228753, 1590965, 1590813 and others) against applicant's pending service mark applications, Serial Nos. 77034407 and 77043344, for the marks MINERS and SOUTHERN

¹ Answer was due to be filed by applicant in 91183196 on May 5, 2008 and in 91183698 on June 2, 2008.

Opposition No. 91183196
Opposition No. 91183698

ILLINOIS MINERS, respectively. Because the parties are the same and the two 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. 91183196 and in 91183698. See Fed. R. Civ. P. 42(a) and TBMP §511 (2nd ed. rev. 2004).

Accordingly, opposer's motion to consolidate is granted and Opposition Nos. 91183196 and in 91183698 may be presented on the same records and briefs. The record will be maintained in Opposition No. **91183196** as the "parent" case, but all papers filed in these cases should include both proceeding numbers in ascending order. See Fed. R. Civ. P. 42(a); and TBMP § 511 (2d ed. rev. 2004).

In view thereof, the motion to extend the answer due date is also granted. See Trademark Rule 2.127(a), 37 C.F.R. § 2.127(a). Answer is due on **June 2, 2008**. Discovery conference, and disclosure, discovery and trial dates for these proceedings are reset as set forth below.

Time to Answer	6/2/2008
Deadline for Discovery Conference	7/2/2008
Discovery Opens	7/2/2008
Initial Disclosures Due	8/1/2008
Expert Disclosures Due	11/29/2008
Discovery Closes	12/29/2008
Plaintiff's Pretrial Disclosures	2/12/2009

Opposition No. 91183196
Opposition No. 91183698

Plaintiff's 30-day Trial Period Ends	3/29/2009
Defendant's Pretrial Disclosures	4/13/2009
Defendant's 30-day Trial Period Ends	5/28/2009
Plaintiff's Rebuttal Disclosures	6/12/2009
Plaintiff's 15-day Rebuttal Period Ends	7/12/2009

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. See Trademark Rule 2.125, 37 C.F.R. § 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b), 37 C.F.R. §§ 2.125(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129, 37 C.F.R. § 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

Opposition No. 91183196

Opposition No. 91183698

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>