

ESTTA Tracking number: **ESTTA243128**

Filing date: **10/16/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184319
Party	Plaintiff Fox News Network, LLC
Correspondence Address	Timothy J. Lyden Hogan & Hartson L.L.P. 8300 Greensboro Drive, Suite 1100 McLean, VA 22102 UNITED STATES boxip@hhlaw.com
Submission	Motion to Consolidate
Filer's Name	Timothy J. Lyden
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Date	10/16/2008
Attachments	DOC240.PDF ( 4 pages )(78480 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Application Serial No.: 77/101,706 (REDEYE I & Design)

Filed: January 29, 2008

FOX NEWS NETWORK, LLC,	:	
	:	
Opposer,	:	
	:	Opposition No. 91184319
v.	:	
	:	
CHICAGO TRIBUNE COMPANY,	:	
	:	
Applicant.	:	

**MOTION TO CONSOLIDATE**

Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, as incorporated under Section 2.116(a) of the Trademark Rules of Practice, Opposer, Fox News Network LLC (“FNC”) hereby respectfully moves that this proceeding be consolidated with Opposition No. 91184316. Consolidation is appropriate because the proceedings involve the same parties, common questions of law and fact and, indeed, involve two trademark applications for the same purported use of the word “REDEYE”, in this case with the design.

First, the parties to the referenced Oppositions are the same. The Chicago Tribune Company (“Tribune”) is the named applicant, and FNC is the Opposer, in both opposition proceedings. Second, the issues in the two Oppositions involve the same questions of law and fact, as evidenced by the virtually identical allegations in the Amended Notices of Opposition filed in connection with both proceedings. Both Oppositions require the Trademark Trial and Appeal Board to resolve identical questions of law based on facts that are the same in all

respects, except that one of the Oppositions [Opposition No. 91184316] opposes registration of Tribune's application for the word mark REDEYE, while the other Opposition [Opposition No. 91184319] opposes registration of Tribune's application for a design mark using the word REDEYE. *See, e.g., S. Industries, Inc. v. Lamb-Weston, Inc.*, 45 U.S.P.Q.2d 1293 (TTAB 1997) (granting a motion to consolidate when both proceedings "involve respondent's STEALTH FRIES mark and contain virtually identical pleadings" to "avoid duplication of effort concerning the factual issues in common and . . . thereby avoid unnecessary costs and delays"); *Karsten Manufacturing Corp. v. Editoy AG*, 79 U.S.P.Q.2d 1783 (TTAB 2006) (where one application was for the word mark PINGU for goods and one was for the mark PINGU and design for goods, the TTAB consolidated the opposition proceedings). The goods and services listed on both applications are identical, and Opposer's grounds for opposing the two applications are the same.

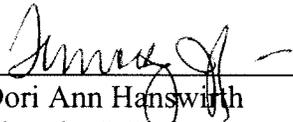
Therefore, it is respectfully submitted that judicial economy militates strongly in favor of consolidation of Opposition No. 91184319 with Opposition No. 91184316.

WHEREFORE, the Motion to Consolidate Opposition No. 91184319 with Opposition No. 91184316 should be granted.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

Date: October 16, 2008

By:   
Dori Ann Hanswirth  
Timothy J. Lyden  
Attorneys for Opposer,  
Fox News Network, LLC

**Please direct correspondence to:**

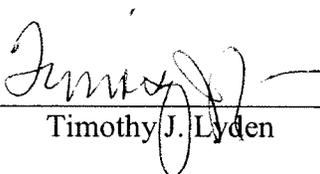
Timothy J. Lyden  
Attn: Box Intellectual Property  
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Suite 1100  
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**CERTIFICATE OF SERVICE  
IN ACCORDANCE WITH 37 CFR § 1.8 and 2.119**

I HEREBY CERTIFY that on this 16th of October, 2008, a true and complete copy of the foregoing Motion to Consolidate was served by first-class mail, postage prepaid, addressed to the following:

Salvador K. Karottki, Esq.  
Tribune Company  
435 N. Michigan Avenue, 6<sup>th</sup> Floor  
Chicago, IL 60611-4029

Counsel to Applicant

By:   
\_\_\_\_\_  
Timothy J. Lyden