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

Proceeding	91186200
Party	Plaintiff Holder Suisse, SA
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Submission	Motion to Consolidate
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Holder Suisse, SA Opposer v. Paule and Gerard Koumetz Applicants	Opposition No.: 91181892 (Serial No. 77/102,556 for the mark PAULETTE) Opposition No.: 91181896 (Serial No. 77/102,540 for the mark PAULETTE MACARON) Opposition No.: 91186200 (Serial No. 77/395,849 for the mark PAULETTE [stylized]) Opposition No. 91186198 (Serial No. 77/395,818 for the mark PAULETTE & Design)

MOTION TO CONSOLIDATE

Pursuant to Fed. R. Civ. P. 42(a) and T.B.M.P. 511, Opposer Holder Suisse, SA, by and through its attorneys, hereby moves to consolidate the above four (4) opposition matters into Opposition No. 91181892. All four oppositions involve identical parties and involve common questions of law and fact, and relate to the PAULETTE formative contained in each of Applicants' marks.

Opposer asked counsel for Applicants whether Applicants would agree to consolidation, and was informed that Applicants are opposed to such consolidation.

I. Background.

Fed. R. Civ. P. 42(a) states that when "actions involving a common question of law or fact are pending before the court, it may order … all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." T.B.M.P. 511 states that when cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases (*citing* S. Industries Inc. v.

Lamb-Weston Inc., 45 U.S.P.Q.2d 1293, 1297 (TTAB 1997) (both proceedings involved the same mark and virtually identical pleadings); Ritchie v. Simpson, 41 U.S.P.Q.2d 1859 (TTAB 1996), rev'd on other grounds, 170 F.3d 1092, 50 U.S.P.Q.2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); Hilson Research Inc. v. Society for Human Resource Management, 27 U.S.P.Q.2d 1423 (TTAB 1993) (opposition and cancellation consolidated); Regatta Sport Ltd. v. Telux-Pioneer Inc., 20 U.S.P.Q.2d 1154 (TTAB 1991); and Estate of Biro v. Bic Corp., 18 U.S.P.Q.2d 1382, 1384 n.3 (TTAB 1991).

In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice or inconvenience that may be caused thereby. *See, e.g.*, World Hockey Ass'n v. Tudor Metal Products Corp., 185 U.S.P.Q. 246 (TTAB 1975) (consolidation ordered where issues were substantially the same and consolidation would be advantageous to both parties);

II. Basis for Consolidation.

Applicant filed four (4) separate trademark applications, for the four marks shown below:

1. PAULETTE MACARON (word mark only), Serial No. 77/102,540
2. PAULETTE (word mark only), Serial No. 77/102,556
3. PAULETTE (stylized), Serial No. 77/395,849

paulette

4. PAULETTE TT & Design, Serial No. 77395818

Each application was filed separately by the same applicants: Paule and Gerard Koumetz. The opposer in each opposition is the same: Holder Suisse S.A. Each opposed application includes the word "Paulette" ("macaron" is simply a French word that means "macaroon"). Each application affects Opposer's previously registered PAUL mark (U.S. Reg. No. 2,282,436). Therefore, not only are the parties in each opposition action the same, the same registered mark (PAUL) is at issue, and all the opposed applications contain the same objectionable word: PAULETTE.

There is no doubt that consolidating all 4 opposition matters will save the parties and the Board a great deal of time, effort and expense. Without consolidation, there will be separate trial orders, schedules, protective orders, motions, discovery, and trial. With consolidation, only one protective order will need to be prepared, discovery will be streamlined, and all the matters can proceed with one set of dates. This will eliminate the risk of oversight or mistake, and will be beneficial to both parties and the Board from an efficiency and cost standpoint. No prejudice or inconvenience will result to either party.

III. Conclusion.

In light of the foregoing, Opposer respectfully requests that the above four (4) opposition matters be consolidated into one "parent" opposition, and that the Board re-set the times for discovery and trial for the consolidated opposition following decision as to this motion to consolidate.

Respectfully submitted,

By: _____

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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of Opposer's *Motion to Consolidate* has been sent by email and first class U.S. mail, postage prepaid, to Applicant's attorney of record as follows:

Laurent C. Vonderweidt
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on this 21st day of October 2008.

_____
Dwayne K. Goetzel