

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

Mailed: June 2, 2009

Opposition No. 91186497

Opposition No. 91186518

Mara T. Sofferin

v.

Samantha Kelman

Jennifer Krisp, Interlocutory Attorney:

On April 22, 2009, Mara T. Sofferin, opposer in both of the above-captioned opposition proceedings, filed a motion to strike applicant's Affirmative Defense No. 1, and to consolidate proceedings. Applicant did not file a brief with the Board in opposition to the motions.

Opposer's motions are hereby granted as conceded, and as well-taken. See Trademark Rule 2.127(a).

With respect to the motion to strike, applicant's Affirmative Defense No. 1, which asserts that the notice of opposition is untimely, is hereby stricken from applicant's answer.

With respect to the motion to consolidate, Opposition No. 91186497 and Opposition No. 91186518 are hereby consolidated, and may be tried and presented on the same record.¹ See *Helene*

¹ When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. See Fed. R. Civ. P. 42(a). Consolidation of proceedings is discretionary with the Board and may be ordered upon the Board's own

Curtis Industries Inc. v. Suave Shoe Corp., 13 USPQ2d 1618 (TTAB 1989).

Opposition No. **91186497** is designated the "**parent proceeding**," and the Board file will be maintained therein. From this point on only a single copy of any paper or motion should be filed in the parent proceeding, and all filings shall caption all consolidated proceedings, listing the parent proceeding first.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings. A copy of the decision will be placed in each proceeding file.

Schedule

Proceedings herein are resumed. Inasmuch as opposer's motion does not state whether the parties held their required discovery conference and was filed prior to the deadline therefor, the discovery conference deadline in these now consolidated proceedings, and all subsequent dates, are hereby reset as follows:

Deadline for Discovery Conference	7/1/2009
Discovery Opens	7/1/2009
Initial Disclosures Due	7/31/2009
Expert Disclosures Due	11/28/2009
Discovery Closes	12/28/2009
Plaintiff's Pretrial Disclosures	2/11/2010
Plaintiff's 30-day Trial Period	3/28/2010

initiative. See Fed. R. Civ. P. 42(a); see also TBMP § 511 (2d ed. rev. 2004).

Ends	
Defendant's Pretrial Disclosures	4/12/2010
Defendant's 30-day Trial Period	
Ends	5/27/2010
Plaintiff's Rebuttal Disclosures	6/11/2010
Plaintiff's 15-day Rebuttal Period	
Ends	7/11/2010

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.

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>