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

Baxley

Mailed: October 7, 2009

Opposition No. **91175473**

Hansen Beverage Company

v.

Cytosport, Inc. and TKE, Inc.

Opposition No. **91189604**
Opposition No. **91189611**
Opposition No. **91191803**
Opposition No. **91191804**
Opposition No. **91191805**
Opposition No. **91191818**
Opposition No. **91191819**
Cancellation No. **92051443**
Cancellation No. **92051535**
Cancellation No. **92051536**
Cancellation No. **92051547**

Hansen Beverage Company

v.

Cytosport, Inc.

Opposition No. **91185365**
Opposition No. **91185387**
Opposition No. **91185389**
Opposition No. **91185391**
Opposition No. **91191151**
Opposition No. **91191156**
Opposition No. **91191157**
Opposition No. **91191158**
Opposition No. **91191665**
Opposition No. **91191666**
Opposition No. **91191861**

CytoSport, Inc.

v.

Hansen Beverage Company

Andrew P. Baxley, Interlocutory Attorney:

Because the above-captioned proceedings involve the overlapping parties and common questions of law or fact, the Board hereby orders their consolidation.[1] See Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); and TBMP Section 511 (2d ed. rev. 2004). The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson*

[1] Opposition Nos. 91175473, 91185365, 91185387, 91185389, 91185391, and 91191158 were previously consolidated. The parties are reminded that, if, during the pendency of these consolidated proceedings, they are or become parties to any other Board proceedings involving related marks or other issues of law or fact which overlap with these consolidated proceedings, they shall notify the Board **immediately,** so that the Board can consider whether consolidation or suspension of proceedings is appropriate. See Trademark Rule 2.117(a); TBMP Sections 510.02(a) and 511 (2d ed. rev. 2004).

Research Inc. v. Society for Human Resource Management, 26 USPQ2d 1423 (TTAB 1993).

The Board file will be maintained in Opposition No. 91175473 as the "parent" case. As a general rule, from this point onward, only a single copy of any submission should be filed herein. That copy, however, should include all of the consolidated proceeding numbers in the caption thereof.

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 pleading; a copy of the decision shall be placed in each proceeding file.

These consolidated proceedings are hereby suspended pending final determination, including any appeals or remands, of a civil action styled *Hansen Beverage Co. v. Cytosport, Inc.*, Case No. CV 09-00031 VBF (AGRx), in the United States District Court for the Central District of California.[2] See Trademark Rule 2.117(a); TBMP Section 510.02(a) (2d ed. rev. 2004).

The Board will make annual inquiry as to the status of Case No. CV 09-00031 VBF (AGRx). Within twenty days after the final determination of that case, one of the parties should notify the Board and call this case up for any

appropriate action. During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.

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[2] Consolidated Opposition Nos. 91175473, 91185365, 91185387, 91185389, 91185391, and 91191158 were previously suspended pending disposition of Case No. CV 09-00031 VBF (AGRx).