

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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gmm/am

Mailed: October 2, 2015

**Opposition No. 91191251 (parent)**  
Opposition No. 91191455  
Opposition No. 91194260

*Excelled Sheepskin & Leather Coat Corp.  
and Rogue Apparel Group, Inc.*

v.

*RML Jackson, LLC*

**David Mermelstein, Administrative Trademark Judge:**

In each of the above-captioned cases, on August 17, 2015, Opposer filed a consented motion to join Rogue Apparel Group, Inc. as a plaintiff party in this proceeding and to suspend proceedings pending the disposition of a bankruptcy proceeding involving Applicant.

As an initial matter, the Board *sua sponte* consolidates Opposition No. 91191251 with previously-consolidated Opposition Nos. 91191455 and 91194260.<sup>1</sup> When the

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<sup>1</sup> Opposition No. 91191251 involves Applicant's BORNROGUE and BORN ROGUE marks (Serial Nos. 77713053 and 77713054); Opposition No. 91191455 involves Applicant's ROGUE SPORTS mark (Serial No. 77714935); and Opposition No. 91194260 involves Applicant's ROGUELIFE mark (Serial No. 77815556). Opposer's pleaded registrations in each opposition are the same, namely, Registration No. 3346559 for the mark ROGUE;

Opposition No. 91191251

latter two proceedings were consolidated by Board order dated April 16, 2010, the Board elected not to consolidate Opposition No. 91191251 because the Board suspended the proceeding pending the outcome of a district court case between the parties involving the validity of Applicant's BORNROGUE and BORN ROGUE marks which are the subject of Opposition 91191251 but are not at issue in Opposition Nos. 91191455 or 91194260.

It has now come to the Board's attention that the parties stipulated to dismissal of the civil action without prejudice. While Opposition No. 91191251 was suspended pending the outcome of the civil case, consolidated proceedings for Opposition Nos. 91191455 and 91194260 were suspended for settlement on several occasions. As a result the proceedings all are on roughly the same schedule. Accordingly, and in view of the common questions of law and fact, the Board now consolidates Opposition Nos. 91191251 with previously-consolidated Opposition Nos. 91191455, and 91194260. *See* Fed. R. Civ. P. 42(a); *see also Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

The consolidated cases may be presented on the same record and briefs. *See Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989); *Hilson Research Inc. v. Soc'y for Human Res. Mgmt.*, 26 USPQ2d 1423 (TTAB 1993).

**The Board file for these consolidated cases now will be maintained in Opposition No. 91191251 as the "parent" case.** As a general rule, from this point forward only a single copy of any paper or motion should be filed in the parent case of

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Registration No. 2815985 for the mark REILLY OLMES ROGUE LEATHER; and,  
Registration No. 2790074 for the mark ROGUE LEATHER BY REILLY OLMES.

the consolidated proceedings, but that copy should bear all three opposition proceeding numbers in its caption, as shown in the caption for this order.

The parties are further advised that despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases will take into account any differences in the issues raised by the respective pleadings and a copy of the final decision will be placed in each proceeding file.<sup>2</sup>

It is the Board's practice to reset discovery, disclosure, and trial dates to conform to the dates latest set in the proceedings that are being consolidated. In this instance, however, these consolidated proceedings are being suspended, as addressed below. Accordingly, remaining discovery, disclosure, and trial dates will be reset as appropriate when proceedings resume.

#### **Opposer's Consented Motion to Join a Party Plaintiff**

Turning to Opposer's motion, Opposer indicates that by an assignment executed on July 23, 2015, Rogue Apparel Group acquired an ownership interest in the marks and registrations relied upon by Opposer in these consolidated proceedings and consequently assumed responsibility for prosecution of the cases.<sup>3</sup> Accordingly, Opposer's motion to join Rogue Apparel Group as a party plaintiff is **GRANTED**. The Board's records have been updated accordingly.

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<sup>2</sup> If the parties are (or during the pendency of this proceeding become) parties to another proceeding involving the same or similar marks, they must notify the Board so the Board can consider whether consolidation or suspension of proceedings is appropriate.

<sup>3</sup> The assignment of, *inter alia*, pleaded Registration Nos. 3346559, 2815985, and 2790074 was recorded on July 29, 2015, at Reel/Frame 5586/0929.

**Opposer's Consented Motion to Suspend**

Opposer also indicates that Applicant, RML Jackson, LLC, is the named debtor in a bankruptcy proceeding filed in the U.S. Bankruptcy Court for the Southern District of New York. Opposer's motion includes a copy of the bankruptcy petition filed by Applicant on July 30, 2015. In view of the bankruptcy proceeding involving Applicant, the parties request suspension of this Board proceeding.

Proceedings are **SUSPENDED**<sup>4</sup> under the automatic stay provisions of Section 362 of the United States Bankruptcy Code, 11 U.S.C. § 362, pending final determination of Applicant's bankruptcy case. *See In re Checkers of North America Inc.*, 23 USPQ2d 1451 (Comm'r 1992); TBMP § 510.03(a).

Within twenty days after the final determination of the bankruptcy case, the parties should notify the Board so that this case may be called up for appropriate action. During the suspension period the Board should be notified of any address changes for the parties or their attorneys.

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<sup>4</sup> This order supersedes the schedule set forth in the Board's June 17, 2015, order.