

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

Mailed: April 25, 2011

Opposition No. 91199109 (parent)

Opposition No. 91199111

Calpis Co., Ltd.

v.

Calico Jack's LLC

Jennifer Krisp, Interlocutory Attorney:

The Board has reviewed the record in the two above-captioned opposition proceedings. Consolidation of proceedings is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See* Fed. R. Civ. P. 42(a); *see also* TBMP § 511 (2d ed. rev. 2004).

Upon its own initiative, the Board has determined that, inasmuch as they involve the same parties and common questions of law and issues of fact, consolidation of these proceedings is appropriate. Accordingly, Opposition Nos. 91199109 and 91199111 are hereby consolidated.

The consolidated cases may be presented on the same record and briefs. *See* TBMP § 511 (2d ed. rev. 2004); *see*

also Helene Curtis Industries Inc. v. Suave Shoe Corp., 13 USPQ2d 1618 (TTAB 1989); *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board proceeding file will be maintained in **Opposition No. 91199109, designated as the "parent" case.** From this point on, the parties are to file a single copy of all motions and papers **in the parent case only**. All motions and papers filed **must caption both of the consolidated oppositions, listing and identifying the parent opposition first (see caption herein above)**.

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, and a copy of the decision shall be filed in each proceeding.

Schedule

In both opposition proceedings, applicant filed its answer to the amended notice of opposition on April 18, 2011. In each answer, applicant failed to answer the first eleven enumerated paragraphs of opposer's amended notice of opposition. To expedite matters, the Board construes applicant's answer, in each proceeding, as a general denial

of paragraphs 1 through 11, inclusive. See TBMP § 311.02(a) (2d ed. rev. 2004).¹

With this construction applied to each answer, said answers are hereby accepted as applicant's pleadings in these consolidated proceedings.

Inasmuch as the pleadings are now closed, conferencing, disclosure, discovery and trial dates are hereby reset for these consolidated proceedings in accordance with the schedule that is presently set forth in Opposition No. 91199111. Said schedule is repeated here, for the parties' convenience:

Deadline for Discovery Conference ²	6/8/2011
Discovery Opens	6/8/2011
Initial Disclosures Due	7/8/2011
Expert Disclosures Due	11/5/2011
Discovery Closes	12/5/2011
Plaintiff's Pretrial Disclosures	1/19/2012
Plaintiff's 30-day Trial Period Ends	3/4/2012
Defendant's Pretrial Disclosures	3/19/2012

¹ The Board reiterates its guidance, set forth in the order issued on April 14, 2011 in Opposition No. 91199109, that applicant consider securing legal representation. Throughout all stages of an inter partes proceeding, the Board requires of all parties their compliance with the Trademark Rules of Practice and, where applicable, the Federal Rules of Civil Procedure, whether or not they are represented by counsel. See *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006).

² In the event that either party, or both parties, elect to request the participation of a Board attorney in the required discovery and settlement conference, the assigned interlocutory attorney may be reached at 571-272-9183 in order to facilitate the scheduling thereof. If the participation of a Board attorney is requested, the parties should first confer so as to determine a day and time, or possible times, during which they are both available for said conference.

Defendant's 30-day Trial Period Ends	5/3/2012
Plaintiff's Rebuttal Disclosures	5/18/2012
Plaintiff's 15-day Rebuttal Period Ends	6/17/2012

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.