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

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Mailed: November 21, 2011

Opposition No. 91199096
Opposition No. 91200614

Thomas J. Long

v.

WaveMarket, Inc.

Cheryl S. Goodman, Interlocutory Attorney:

Consolidation

On October 4, 2011, opposer filed a motion to consolidate. Applicant has not filed a response thereto.

In considering opposer's motion, the Board has reviewed each of the above-identified proceedings and determined that each proceeding involves the same parties, the same marks and at least some of the same questions of law and fact. The Board finds it appropriate to consolidate the above-identified proceedings. TBMP Section 511; Civ. P. 42(a). See e.g., *Regatta Sports Ltd., v. Telux-Pioneer, Inc.*, 20 USPQ2d 1154 (TTAB 1991). In view thereof, opposer's motion is granted.

Accordingly, Opposition No. 91199096 is hereby consolidated with Cancellation No. 91200614. Although each proceeding retains its separate character, the cases may be presented on the same record and briefs. The record will be maintained at the Board in Opposition No. 91199096 as the "parent" case, but all papers filed in these cases should include all proceeding numbers in ascending order.[1]

Extension of Time Granted

The stipulated motion (filed October 12, 2011[2]) in Opposition No. 91199096 to extend dates is granted. The Board notes that all of the parties' motions in Opposition No. 91199096 seek to extend the *opening date* for discovery which is generally the deadline for the discovery conference. The initial motion making such a request in Opposition No. 91199096 was on July 18, 2011, after the opening of discovery and the deadline for the discovery conference had passed. The Board considers discovery to have opened in this case. The Board presumes the parties have proceeded to their discovery conference in Opposition No. 91199096.

In Opposition No. 91200614, the parties sought to extend the discovery conference deadline and all other

[1] The parties are ordered to advise the Board of any additional related inter partes proceedings at the Board.

dates. The Board denied the motion on October 13, 2011. Discovery in Opposition No. 91200614 opened on November 7, 2011. The Board presumes that the parties have proceeded to their discovery conference in that case.

Therefore, the Board considers discovery to have opened in both cases, and the discovery conferences to have been conducted.[3] The Board adopts the disclosure, discovery and trial schedule for Opposition No. 91199096 for the consolidated proceeding (in view of the granting of the extension request) as set forth below. This schedule reflects the closing date, not the opening date, of discovery.[4] Future request that seek an extension should include a proposed disclosure, discovery and trial schedule such as the one set forth below.

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[2] The October 12, 2011 extension request is considered to have superseded the October 3, 2011 extension request.

[3] The October 3, 2011 and October 12, 2011 stipulations to extend filed in Opposition No. 91199096 were both filed after the opening of discovery in Opposition No. 91199096. The extension request filed on October 13, 2011 in Opposition No. 91200614 was denied, and discovery in that case opened on November 7, 2011.

[4] As the parties were advised in Opposition No. 91200614, no good cause is established to extend discovery on the basis of settlement talks inasmuch as the purpose of the discovery conference is, in part, to discuss settlement. The parties are expected to have discussed all topics for the required discovery conference, in both cases, not just settlement of the matter. See TBMP Section 401 (3d ed. 2011).

Accordingly, disclosure, discovery and trial dates, including the counterclaim dates, are reset as indicated below.

Initial Disclosures Due	January 7, 2012
Expert Disclosures Due	May 6, 2012
Discovery Closes	June 5, 2012
Plaintiff's Pretrial Disclosures	July 20, 2012
30-day testimony period for plaintiff's testimony to close	September 3, 2012
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	September 18, 2012
30-day testimony period for defendant and plaintiff in the counterclaim to close	November 2, 2012
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	November 17, 2012
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	January 1, 2013
Counterclaim Plaintiff's Rebuttal Disclosures Due	January 16, 2013
15-day rebuttal period for plaintiff in the counterclaim to close	February 15, 2013
Brief for plaintiff due	April 16, 2013
Brief for defendant and plaintiff in the counterclaim due	May 16, 2013
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	June 15, 2013
Reply brief, if any, for plaintiff in the counterclaim due	June 30, 2013

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.

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.