

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

Mailed: February 9, 2012

Opposition No. **91200832**
(parent)

Briggs & Stratton Corporation

v.

Honda Giken Kogyo Kabushiki
Kaisha (Honda Motor Co., Ltd.)
a Motor Co., Ltd.)

Opposition No. 91200146

Kohler Co.

v.

Honda Giken Kogyo Kabushiki
Kaisha (Honda Motor Co., Ltd.)
a Motor Co., Ltd.)

Cheryl S. Goodman, Interlocutory Attorney:

This case now comes up on the following motions (filed January 31, 2012 in Opposition No. 91200832 and February 2, 2012, in Opposition No. 91200146) via teleconference on February 7, 2012 with counsel for the parties:

- 1) motion to consolidate related oppositions;
- 2) motion to extend; and
- 3) motion to modify the Board's standard protective order.

Motion to Consolidate¹

As all parties have agreed to consolidate, the motion to consolidate related oppositions (involving different party opposers and different counsel for opposers) is granted. Briggs & Stratton Corporation's counsel, Robert Phillips Esq. shall be lead counsel in this case and will be responsible for transmitting all Board orders to Kohler's counsel. Kohler's counsel, will be added to the e-mail addresses in Opposition No. 91200832.

Although normally, the lower numbered case is the parent case for purposes of consolidation when the party opposer is the same, in this case Opposition No. 91200832 will be considered the "parent case" for purposes of filing of motions, entry of Board orders, and other correspondence in view of the selection of Briggs & Stratton Corporation's counsel as lead counsel for the different party opposers.

In view thereof, Opposition Nos. 91200146 and 91200832 are hereby consolidated. Although each proceeding retains its separate character, they may be presented on the same record and briefs. The record will be maintained at the Board in Opposition No. 91200832 as the "parent" case, but

¹ There is a third opposition, No. 91187217, (filed in 2008 when the involved application was first published for opposition), presently in suspended status for settlement. Opposition Nos. 91200146 and 91200832 were filed in 2011 after restoration of jurisdiction and republication of the involved mark for opposition.

Opposition Nos. 91200832 and 91200146

all papers filed in these cases should include all parties and proceeding numbers as shown herein.

Motion to Extend

The motion to extend is granted to the extent that dates will be reset for the consolidated proceeding by three months from the expert discovery deadline for the current schedule in the Kohler case, which has the later schedule with respect to both oppositions.

Protective Order

With regard to the protective order, the parties are allowed until February 17, 2011 to attempt to come to some agreement with respect to the following, which the Board understands from the teleconference remain unresolved:

- 1) Whether the parties will operate under a two-tier (confidential/highly confidential) or three tier (confidential/highly confidential/commercial sensitive-trade secret) agreement;
- 2) If the parties agree to a three-tier agreement, whether trade secret will be further defined;
- 3) The access of the parties' in-house counsel with respect to either highly confidential (if using a two-tier agreement) or commercially sensitive/trade secret (if using a three tier agreement).

The parties are to file notification with the Board by the close of business, February 17, 2011, 5:30 pm EST as to whether they have resolved any or all of the matters identified above with regard to the protective order, and to

Opposition Nos. 91200832 and 91200146

file a copy of the agreed to protective order with the Board.

In the event all matters are not resolved with respect to the protective order, the parties should advise what matters remain for resolution by the Board.

The Board will then set down a short briefing schedule for the parties to provide support for their position on any outstanding matters regarding the protective order.

Dates in the consolidated proceeding are reset as follows:²

Expert Disclosures Due	7/30/12
Discovery Closes	8/29/12
Plaintiff's Pretrial Disclosures	10/13/12
Plaintiff's 30-day Trial Period Ends	11/27/12
Defendant's Pretrial Disclosures	12/12/12
Defendant's 30-day Trial Period Ends	1/26/13
Plaintiff's Rebuttal Disclosures	2/10/13
Plaintiff's 15-day Rebuttal Period Ends	3/12/13

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.

² The new deadlines are reset based on a three month extension running from the present May 1, 2012 deadline of Kohler's expert disclosures.