

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

Mailed: September 30, 2011

Opposition Nos. 91199970 (parent)
91201200
91201201

eCube Solutions, LLC

v.

Universal Master Products Limited

**Robert H. Coggins,
Interlocutory Attorney:**

On September 16, 2011, applicant filed (in each opposition) a combined motion to consolidate Opposition Nos. 91199970, 91201200, and 91201201, and to suspend the consolidated cases pending disposition of a civil action between the parties. The Board exercises its discretion to determine the motion prior to the expiration of time in which opposer may file a brief in opposition thereto.

Consolidation

Federal R. Civ. P. 42(a), made applicable by Trademark Rule 2.116(a), provides with respect to consolidation of proceedings that, when actions involve a common question of law or fact, the Board may order a joint hearing or trial of any or all of the matters at issue in the actions, it may order all the actions consolidated, and it may make such

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orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. See TBMP § 511 (3d ed. 2011).

The Board has reviewed the records in Opposition Nos. 91199970, 91201200, and 91201201, and concludes that these cases involve identical parties, similar marks, and common questions of law and fact. It would therefore be appropriate to consolidate these proceedings pursuant to Fed. R. Civ. P. 42(a). Accordingly, applicant's motion to consolidate is granted as well-taken.

The above-noted proceedings are hereby consolidated and 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 Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1432 (TTAB 1993). The Board file will be maintained in Opposition No. 91199970 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding. Only a single copy of each paper should be filed by the parties, and each paper should bear the case caption as set forth above. TBMP § 511.

Suspension

The issue of suspension of Board proceedings involving the instant parties and based on the same civil action has previously come before the Board in the parent Opposition Nos. 91199970. Inasmuch as the parties to the instant consolidated opposition proceedings are also parties to Civil Action No. 3:10-CV-02316-GEB-DEA in the United States

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District Court for the District of New Jersey, the issues in the civil action include issues in common with those in the consolidated opposition proceedings, and the issues in the civil action may have a bearing on the rights of the parties in the Board cases, applicant's motion to suspend the consolidated Board proceedings pending final determination of the civil action is granted as well taken. See Trademark Rule 2.117(a) and *General Motors Corp. v. Cadillac Club Fashions Inc.*, 22 USPQ2d 1933 (TTAB 1992). Accordingly, these consolidated proceedings are suspended.

Within twenty days after the final determination of the civil action, the parties shall so notify the Board so these consolidated proceedings may be called up for appropriate action (including setting opposer's time to file an answer to the counterclaim, if appropriate). During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.