

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

MBA/kk

Mailed: September 25, 2012

Opposition Nos. 91205331 (parent)  
91205338

Ms. Teresa H. Earnhardt

v.

Kerry Earnhardt, Inc.

**Michael B. Adlin, Interlocutory Attorney:**

On September 10, 2012, the parties filed a stipulated motion to consolidate Opposition Nos. 91205331 and 91205338. The Board may consolidate pending cases that involve common questions of law or fact. See Fed. R. Civ. P. 42(a); see also, *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). Inasmuch as the parties to the respective proceedings are the same and the proceedings involve common questions of law or fact, the Board finds that consolidation of the above-referenced proceedings is appropriate. Consolidation will avoid duplication of effort concerning the factual issues and will thereby avoid unnecessary costs and delays.

In view thereof, the parties' motion to consolidate is hereby granted. Trademark Rule 2.127(a). Opposition Nos.

Opposition Nos. 91205331 and 91205338

91205331 and 91205338 are hereby consolidated and may be presented on the same record and briefs. The record will be maintained in Opposition No. 91205331 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding, but instead should file only a single copy of each paper in the parent case. Each paper filed should bear the numbers of all consolidated proceedings in ascending order, and the parent case should be designated as the parent case by following it with: "(parent)," as in the case caption set forth above.

Consolidated cases do not lose their separate identity because of consolidation. Each proceeding retains its separate character and requires entry of a separate judgment. 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 final decision shall be placed in each proceeding file. See Wright & Miller, Federal Practice and Procedure: Civil Section 2382 (1971).

The parties are instructed to promptly inform the Board of any other related cases within the meaning of the Fed. R. Civ. P. 42. Disclosure, discovery, trial and other dates in the now-consolidated cases shall be coextensive with the current schedule in Opposition No. 91205338.

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