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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207598
Party	Plaintiff RxD Media, LLC
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Submission	Motion to Consolidate
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Date	05/28/2013
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

RxD Media, LLC, <i>Opposer,</i> vs. IP Application Development LLC, <i>Applicant.</i>	Opposition Nos.: 91207333 and 91207598 Marks: IPAD
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MOTION TO CONSOLIDATE

On October 5, 2012, RxD Media, LLC (“Opposer”) filed a Notice of Opposition to the application of IP Application Development LLC (“Applicant”) to register the mark IPAD (Serial No. 77/927,446), alleging a likelihood of confusion with its mark IPAD (Serial No. 77/958,000) and asserting priority in same. The proceeding was instituted on October 6, 2012, and assigned Opposition No. 91207333.

On October 23, 2012, Opposer filed a second Notice of Opposition to Applicant's application to register the mark IPAD (Serial No. 77/913,563), alleging a likelihood of confusion with its mark IPAD (Serial No. 77/958,000) and asserting priority in same. The proceeding was instituted on October 23, 2012, and assigned Opposition No. 91207598.

Pursuant to the Trademark Trial and Appeal Board Manual of Procedure, when cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the case upon stipulation of the parties approved by the Board. TBMP § 511. *See* Fed. R. Civ. P. 42(a); *M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008) (proceeding involved identical parties, identical registrations and related issues); *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293, 1297 (TTAB 1997) (both proceedings

involved the same mark and virtually identical pleadings); *Ritchie v. Simpson*, 41 USPQ2d 1859 (TTAB 1996), *rev'd on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); *Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993) (opposition and cancellation consolidated). Consolidation is appropriate in this case as the parties are identical and the applications at issue all contain the same common element. Applicant's counsel has consented to this motion to consolidate, as both parties believe that consolidation will promote judicial economy without causing any undue prejudice or inconvenience.

Should the Board grant this motion to consolidate the proceedings, Opposer respectfully requests that the remaining deadlines in the consolidated opposition be aligned with the current schedule set forth in Opposition No. 91207598:

Time to Answer : CLOSED
Deadline for Discovery Conference : CLOSED
Discovery Opens : CLOSED
Initial Disclosures Due : CLOSED
Expert Disclosure Due : 07/30/2013
Discovery Closes : 08/29/2013
Plaintiff's Pretrial Disclosures : 10/13/2013
Plaintiff's 30-day Trial Period Ends : 11/27/2013
Defendant's Pretrial Disclosures : 12/12/2013
Defendant's 30-day Trial Period Ends : 01/26/2014
Plaintiff's Rebuttal Disclosures : 02/10/2014
Plaintiff's 15-day Rebuttal Period Ends : 03/12/2014

As the consolidation of these proceedings will save time, effort, and expense, Opposer respectfully requests that this consented motion be granted.

Dated: May 28, 2013

Respectfully Submitted,

/Nicole D. Galli/

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CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2013, a true and complete copy of the foregoing MOTION TO CONSOLIDATE was served via first class mail on counsel for Applicant at the following address:

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/Nicole D. Galli/

Attorney for Opposer
RxD Media, LLC