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

Proceeding	91208732
Party	Plaintiff VARTA Microbattery GmbH
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Date	12/20/2013
Attachments	Joint Motion to Suspend and Consolidate.pdf(126859 bytes)

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

Johnson Controls Technology Company,

Petitioner-Opposer,

and

Johnson Controls Hybrid and Recycling GmbH,

Petitioner-Opposer-Applicant,

v.

VARTA Microbattery GmbH,

Respondent-Applicant-Opposer.

Cancellation No. 92053247

Opposition No. 91197255

Opposition No. 91208732

Opposition No. 91208212

JOINT MOTION TO SUSPEND AND CONSOLIDATE

Pursuant to TBMP §§510 and 511, VARTA Microbattery GmbH (“Varta”), Johnson Controls Technology Company and Johnson Controls Hybrid and Recycling GmbH (collectively “Johnson Controls”), by their attorneys, hereby jointly move to suspend and consolidate the four above-captioned proceedings. Varta and Johnson Controls Hybrid and Recycling GmbH and its parent company Johnson Controls, Inc. are parties to a pending Arbitration proceeding no. 198857/GFG in the International Court of Arbitration of the International Chamber of Commerce (“ICC”) which concerns the interpretation of Agreements that may govern the use and registration of the marks at issue in these TTAB proceedings. Since these proceedings involve identical and related parties and common questions of law or fact a suspension and consolidation is warranted.

In particular, on November 19, 2013, Johnson Controls, Inc. (which is the parent company to Johnson Controls Technology Company and Johnson Controls Hybrid and

Recycling GmbH) and Johnson Controls Hybrid and Recycling GmbH filed a Request for Arbitration at the ICC, which has been designated arbitration no. 198857/GFG. Through the Request for Arbitration, Johnson Controls seeks a determination of the scope of the trademark rights to the trademarks VARTA and the Varta V design Mark and these marks are the subject of TTAB proceedings pursuant to Agreements entered into by the Parties. These Agreements are referenced in the Petition to Cancel filed in Cancellation No. 92053247 and the Notice of Opposition filed in Opposition No. 91197255. The Varta V design mark is depicted in U.S. Trademark Registration No. 3669642. Furthermore, this registration is the subject of Cancellation No. 9205327 and has been pleaded in Opposition No. 91208732 and Opposition No. 91208212.

The pertinent arbitration clause in each of these Agreements state that:

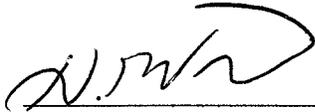
“[A]ll disputes arising out of or in connection with this Agreement shall be *settled finally* under the Rules of Arbitration of International Chamber of Commerce by three arbitrators appointed in accordance with said Rules”...(Emphasis added).

A decision in the arbitration proceeding may decide the issues concerning the use and registration of the marks which are the subject of these TTAB proceedings. Accordingly, the Parties jointly request that the above captioned TTAB proceedings be suspended pending a final determination of the arbitration proceeding.

Furthermore, as these TTAB proceedings involve common questions of law and fact and the same and related parties, the Parties respectfully jointly request that the TTAB consolidate these proceedings.

As confirmed below, the Parties expressly consent and/or stipulate to the suspension and consolidation of the above-referenced proceedings and respectfully request same.

Respectfully submitted,



H. David Starr
Attorney for VartaMicrobattery GmbH



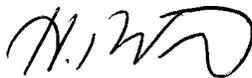
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Attorneys for Johnson Controls
Technology Company and
Johnson Controls Hybrid and Recycling GmbH

Dated: December 10, 2013
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CERTIFICATE OF SERVICE

This is to certify that I am on this 20 day of December, 2013 serving a copy of the within and foregoing upon the Petitioners' attorneys via electronic mail return receipt requested, addressed as follows: pjlynfield@lawabel.com, nwbranthover@lawabel.com.



H. David Starr