

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Baxley

Mailed: October 20, 2014

Opposition No. 91210813
Opposition No. 91217915
Cancellation No. 92059849

SATA GmbH & Co. KG

v.

Mike Ghorbani

(as consolidated)

Andrew P. Baxley, Interlocutory Attorney:

On September 10, 2014, Defendant filed separate motions to suspend Opposition No. 91217915 and Cancellation No. 92059849 pending final determination of Opposition No. 91210813. In Plaintiff's briefs in response, Plaintiff, on September 29, 2014, incorporated motions to consolidate Opposition Nos. 91210813 and 91217915 and Cancellation No. 92059849. Defendant, on October 3, 2014, filed a combined reply brief in support of the motions to suspend and brief in opposition to the motions to consolidate in the Board file for Cancellation No. 92059849. Although Plaintiff's time to file a reply brief in support of the motions to consolidate has not lapsed, the Board, in its discretion, elects to decide the motions to suspend and the motions to consolidate at this time. *See* Trademark Rule 2.127(a).

Notwithstanding that Opposition No. 91217915 and Cancellation No. 92059849 were commenced more than one year after the commencement of Opposition and that Defendant has yet to file an answer in those proceedings,¹ the Board notes that discovery has not closed in Opposition No. 91210813.² Further, the proceedings at issue involve similar claims against marks which are composed of, or include, the EURO formative for use on overlapping goods, i.e., “paint spray guns.” Accordingly, the Board finds that judicial economy is best served, and cost to the parties is reduced, by consolidating the above-captioned proceedings so that they can move forward to a final decision after a single trial.

In view thereof, Defendant’s motion to suspend is denied, and Plaintiff’s motion to consolidate is granted. The Board hereby orders the consolidation of the above-captioned proceedings. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); TBMP § 511 (2014). The consolidated cases may be presented on the same record and briefs. *See Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB

¹ Application Serial No. 86227768, the subject application in Opposition No. 91217915 was not published for opposition until June 24, 2014.

² The Board did not issue a suspension order pending the Board’s decision on the parties’ motions to compel in Opposition No. 91210813 until August 1, 2014, i.e., five weeks after the June 26, 2014 close of discovery under the operative schedule at the time such motions were filed. However, the Board, in exercising its inherent authority to control the scheduling of cases on its docket, treats the filing of Plaintiff’s motion to compel on June 17, 2014 as having tolled the running of dates in Opposition No. 91210813.

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1989); *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board file will be maintained in Opposition No. 91210813 as the "parent" case. As a general rule, from this point onward, only a single copy of any submission should be filed herein. That copy, however, should include all of the consolidated proceeding numbers in the caption thereof.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

The newly consolidated proceedings are hereby suspended in accordance with the August 1, 2014 order in Opposition No. 91210813. The parties' motions to compel in Opposition No. 91210813 will be decided in due course.