

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: March 31, 2014

Opposition No. 91207557

**(Parent Case)**

Timarron Owners Association, Inc.

v.

Barbara Morton dba Timarron College  
Prep

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Opposition No. 91212131

Barbara Morton

v.

Timarron Owner's Association, Inc.

**George C. Pologeorgis,  
Interlocutory Attorney:**

It has come to the Board's attention that the above-captioned opposition proceedings involve common questions of law and fact and the parties are the same. When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. *See Fed. R. Civ. P. 42(a); see also, Regatta Sport Ltd. v. Telux-Pioneer*

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*Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18

USPQ2d 1382 (TTAB 1991).

Accordingly, the Board, *sua sponte*, orders the consolidation of the above-captioned proceedings.

In view thereof, Opposition Nos. 91207557 and 91212131 are hereby consolidated.<sup>1</sup>

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

The Board file for these consolidated cases will be maintained in Opposition No. 91207557 as the "parent" case. As a general rule, from this point on only a single copy of any paper or motion should be filed in the parent case of the consolidated proceedings, but that copy should bear both opposition proceeding numbers in its caption. The only exception is that the answer to each notice of opposition must be filed in the respective corresponding proceeding.<sup>2</sup>

The parties are further advised that despite being consolidated, each proceeding retains its separate character. The decision on the consolidated

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<sup>1</sup> In light of this order, Timarron Owners Association, Inc.'s motion to consolidate filed on November 21, 2013 in Opposition No. 91207557 and cross-motion to consolidate filed on December 30, 2013 in Opposition No. 91212131 are deemed moot and will be given no further consideration.

<sup>2</sup> The Board notes that applicant, Barbara Morton, filed her answer in Opposition No. 91207557 on November 27, 2012 and applicant Timarron Owners Association, Inc. filed its answer in Opposition No. 91212131 on September 30, 2013.

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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.<sup>3</sup>

In accordance with Board practice, discovery, disclosure and trial dates are reset to conform to the dates latest set in the proceedings that are being consolidated. In this instance, however, the Board notes that Opposition No. 91207557 was suspended on July 9, 2013 pending the final disposition of a state court proceeding involving the parties herein. Based upon the record of each of the oppositions consolidated by this order, the Board notes that an appeal remains pending in the state court action.

In view thereof, this now consolidated case remains **suspended** pending the final determination of the state court action, including the disposition of all appeals.<sup>4</sup> A proceeding is considered to have been finally determined when a decision on the merits of the case (*i.e.*, a dispositive ruling that ends litigation on the merits) has been rendered, and no appeal has been filed therefrom, or all appeals filed have been decided. *See* TBMP Section 510.02(b) (3d ed. rev. 2 2013).

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<sup>3</sup> The parties should promptly inform the Board in writing of any other related *inter partes* proceedings. *See* Fed. R. Civ. P. 42(a).

<sup>4</sup> In light of this order, Barbara Morton's motion filed on December 13, 2013 to suspend Opposition No. 91212131 pending the final disposition of the state court action, including all appeals, is deemed moot and will be given no further consideration. Similarly, Timarron Owner's Association, Inc.'s motion to extend trial dates filed on March 17, 2014 in Opposition No. 91212131 is also deemed moot in light of this order and will be given no further consideration.

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Within twenty days after the final determination of the state court action, including the disposition of all appeals, the parties shall so notify the Board so that this consolidated proceeding may be called up for appropriate action. Such notification to the Board should include a copy of any final order or final judgment which issued in the state court action, including any order issued by the state appellate court(s).

During the suspension period, the parties must notify the Board of any address changes for the parties or their attorneys. In addition, the parties are to promptly inform the Board of any other related cases, even if they become aware of such cases during the suspension period. Upon resumption, if appropriate, the Board may consolidate these new additional related Board cases.