

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

Mailed: February 13, 2015

Opposition No. 91213527 (Parent)
Cancellation No. 92059629
Cancellation No. 92059455¹

Omaha Steaks International, Inc.

v.

Greater Omaha Packing Co., Inc.

Benjamin U. Okeke, Interlocutory Attorney:

On December 3, 2014, Greater Omaha Packing Co., Inc. (“Applicant”) filed a motion to consolidate Opposition No. 91213527 and Cancellation Nos. 92059629 and 92059455.² The Board notes initially that Applicant has filed its answer in each proceeding for which consolidation is sought.

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In

¹ Applicant’s change of correspondence address (filed July 22, 2014) and its answer to the petition to cancel (filed July 31, 2014) are noted. The Board’s records have been updated to reflect Applicant’s current correspondence address.

² In conjunction with its answer, Applicant also asserted a counterclaim in Cancellation No. 92059455.

Opposition No. 91213527 (Parent); Cancellation Nos. 92059629 and 92059455

determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby.

Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, e.g., Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993).

It is noted that the parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is **GRANTED** as conceded, inasmuch as Opposer failed to file, within the time allowed, a response. Trademark Rule 2.127(a). Opposition No. 91213527 and Cancellation Nos. 92059629 and 92059455 are consolidated and may be presented on the same record and briefs. *See Hilson Research Inc. v. Society for Human Resource Management, supra*; and *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Opposition No. 91213527 as the “parent case.” From this point on, only a single copy of all motions and papers should be filed, and each such motion or paper should be filed in the parent case only, but caption all consolidated proceeding numbers, listing the “parent case” first.³

³ The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

Despite being consolidated, 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; a copy of the decision shall be placed in each proceeding file.

Accordingly, trial dates, including counterclaim dates, are reset upon the schedule set out in Cancellation No. 92059455 as follows:

Expert Disclosures Due	March 15, 2015
Discovery Closes	April 14, 2015
Plaintiff's Pretrial Disclosures Due	May 29, 2015
30-Day Testimony Period for Opposer to Close	July 13, 2015
Applicant/Counterclaim Petitioner's (Cancellation No. 92059455) Pretrial Disclosures Due	July 28, 2015
30-Day Testimony Period for Registrant/Counterclaim Petitioner to Close	September 11, 2015
Opposer/Counterclaim Respondent's Rebuttal Disclosures Due	September 26, 2015
30-Day Testimony Period for Counterclaim Respondent as well as Rebuttal Testimony as Opposer to Close	November 10, 2015
Counterclaim Petitioner's Rebuttal Disclosures Due	November 25, 2015
15-Day Rebuttal Period for Counterclaim Petitioner to Close	December 25, 2015
Brief for Opposer Due	February 23, 2016
Brief for Applicant/Counterclaim Petitioner Due	March 24, 2016

Brief as Counterclaim Respondent and Opposer's
Reply Brief, if any, Due

April 23, 2016

Reply Brief, if any, for Counterclaim Petitioner
Due

May 8, 2016

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.