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: May 5, 2014

Opposition No. 91212950
(Parent)
Opposition No. 91215647

McDonald's Corporation

v.

McFit GmbH

Amy Matelski, Paralegal Specialist:

On April 25, 2014, opposer filed a motion to consolidate Opposition Nos. 91212950 and 91215647, with applicant's consent. The Board notes initially that applicant has not yet filed its answer in Opposition No. 91215647 for which consolidation is sought.[1]

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 determining whether to consolidate proceedings, the Board will weigh the

[1] Applicant's answer filed in Opposition No. 91212950, dated December 19, 2013 is noted and made of record.

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); and *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991).

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. Opposition No. 91212950 and Opposition No. 91215647 are hereby 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. **91212950** as the "parent case." From this point on, only a single copy of any motion and any paper 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. However, inasmuch as these proceedings are being consolidated prior to joinder of the issues in each proceeding, applicant should file a separate answer in Opposition No. 91215647 before commencing

the practice of filing a single copy of all motions and papers in the parent case.[2]

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.

Upon consolidation, the Board will reset dates for the consolidated proceeding, usually by adopting the dates as set in the most recently instituted of the cases being consolidated. Answer, discovery, conferencing, disclosure and trial dates remain as set forth below.

Time to Answer in Opposition 91215647	**5/7/2014**
Deadline for Discovery Conference	**6/6/2014**
Discovery Opens	**6/6/2014**
Initial Disclosures Due	**7/6/2014**
Expert Disclosures Due	**11/3/2014**
Discovery Closes	**12/3/2014**
Plaintiff's Pretrial Disclosures	**1/17/2015**
Plaintiff's 30-day Trial Period Ends	**3/3/2015**
Defendant's Pretrial Disclosures	**3/18/2015**
Defendant's 30-day Trial Period Ends	**5/2/2015**
Plaintiff's Rebuttal Disclosures	**5/17/2015**
Plaintiff's 15-day Rebuttal Period Ends	**6/16/2015**

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within

[2] 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.

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.