

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: August 17, 2015

Opposition No. 91217720(Parent)
Opposition No. 91221494

Sazerac Company, Inc.

v.

Daiquiri Ice, LLC

Karl Kochersperger, Paralegal Specialist:

On June 26, 2015, Applicant filed a response to the notice of default (issued on June 12, 2015) and a motion to consolidate Opposition Nos. 91217720 and 91221494. The Board notes initially that Applicant has not yet filed its answer in each proceeding for which consolidation is sought. *See* TBMP Section 511. Opposer has not filed a response to Applicant's motions. Accordingly, for the reasons provided Applicant's motion to set aside the Board's notice of default is granted. *See* Trademark Rule 2.127(a).

The Board may consolidate pending cases that involve common questions of law or fact. *See* Fed. R. Civ. P. 42(a); see also, *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). Inasmuch as the parties to the respective proceedings are the same and the proceedings involve common questions of law or fact, the Board finds that consolidation of the above-referenced proceedings is appropriate. Consolidation will avoid

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duplication of effort concerning the factual issues and will thereby avoid unnecessary costs and delays.

In view thereof, Applicant's motion to consolidate is hereby granted. Opposition Nos. 91217720 and 91221494 are hereby consolidated and may be presented on the same record and briefs. The record will be maintained in Opposition No. 91217720 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding, but file only a single copy of each paper in the parent case. However, because these proceedings are being consolidated before the filing of answer(s) in Opposition No. 91221494, Applicant must file its answer in each proceeding, following which subsequent filings should be filed only in the parent case.

Each paper filed should bear the numbers of all consolidated proceedings in ascending order, and the parent case should be designated as the parent case by following it with: "(parent)," as in the case caption set forth above.

Consolidated cases do not lose their separate identity because of consolidation. 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 and a copy of the final decision shall be placed in each proceeding file. *See Wright & Miller, Federal Practice and Procedure: Civil Section 2382 (1971).*

The parties are instructed to promptly inform the Board of any other related cases within the meaning of the Fed. R. Civ. P. 42. Proceedings herein are resumed

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and disclosure, discovery, trial and other dates in the now-consolidated cases are reset as follows:

Time to Answer in Opposition No. 91221494	9/16/2015
Deadline for Discovery Conference	10/16/2015
Discovery Opens	10/16/2015
Initial Disclosures Due	11/15/2015
Expert Disclosures Due	3/14/2016
Discovery Closes	4/13/2016
Plaintiff's Pretrial Disclosures	5/28/2016
Plaintiff's 30-day Trial Period Ends	7/12/2016
Defendant's Pretrial Disclosures	7/27/2016
Defendant's 30-day Trial Period Ends	9/10/2016
Plaintiff's Rebuttal Disclosures	9/25/2016
Plaintiff's 15-day Rebuttal Period Ends	10/25/2016

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.