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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217750
Party	Plaintiff Dent Perfect, L.L.C. d/b/a HAILUSA
Correspondence Address	ELLIOTT J STEIN STEVENS & LEE PC 100 LENOX DRIVE, SUITE 200 LAWRENCEVILLE, NJ 08648 UNITED STATES ejs@stevenslee.com,ddu@stevenslee.com
Submission	Motion to Consolidate
Filer's Name	ELLIOTT J. STEIN
Filer's e-mail	ejs@stevenslee.com,ddu@stevenslee.com
Signature	/varlawyer/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DENT PERFECT, L.L.C., a Missouri limited liability company, also doing business as HAILUSA, Opposer, v. www.freehailestimate.com, LLC, a Missouri limited liability company, Applicant.	Opposition No. **91-217,750** In the Matter of: U.S. Application Serial No. 85/811,429 for "**FREEHAILESTIMATE.COM**" and U.S. Application Serial No. 85/811,436 for "**FREEHAILESTIMATE.COM**" & Design

DENT PERFECT, L.L.C., a Missouri limited liability company, also doing business as HAILUSA, Opposer v. www.freehailestimate.com, LLC, a Missouri limited liability company, Applicant.	Opposition No. **91-219,727** U.S. Application Serial No. 85/864,172 for "**1-877-774-HAIL FREE HAIL ESTIMATE .COM AUTO HAIL ESTIMATING & REPAIR GROUP**" & Design

OPPOSER'S CONSENTED-TO MOTION TO CONSOLIDATE

Opposer in both of the above-captioned opposition, Dent Perfect, LLC, also doing business as HAILUSA, ("HAILUSA") hereby moves to consolidate, pursuant to Fed. R. Civ. P. 42(a) and T.B.M.P. § 511, the referenced proceedings brought separately against Applicant www.freehailestimate.com, LLC ("FHE").

The Applicant, FHE, has consented to the granting of the motion.

I. PROCEDURAL HISTORY

On August 7, 2014, HAILUSA filed a Notice of Opposition which was assigned Opposition No. 91-217,750 (the "Initial Opposition"). The Opposition seeks refusal of U.S. Trademark Application Serial Nos. 85/811, 429 (the "'429 Application") and 85/811, 436 (the "'436 Application"). By filing the '429 Application, FHE sought to register the trademark "FREEHAILESTIMATE.COM" for "Automobile body repair and finishing for others" in International Class 037. By filing the '436 Application, FHE sought to register the trademark "FREEHAILESTIMATE.COM" and design for "Automobile body repair and finishing for others" in International Class 037. FHE answered the Initial Opposition on September 16, 2014.

On December 11, 2014, HAILUSA filed a Notice of Opposition which was assigned Opposition No. 91-219,727 (the "Subsequent Opposition"). The Opposition seeks rejection of U.S. Trademark Application Serial Nos. 85/864,172 (the "'172 Mark") pursuant to which FHE sought registration of "1-877-774-HAIL FREE HAIL ESTIMATE.COM AUTO HAIL ESTIMATING & REPAIR GROUP" and design for "Automobile body repair and finishing for others" in International Class 037. FHE must respond to the Subsequent Opposition on or before January 20, 2015. FHE has not yet answered the Subsequent Opposition.

Both the Initial Opposition and the Subsequent Opposition are in the initial stages, involve the same parties and focus upon the Applicant's use of "FREEHAILESTIMATE" and "FREE HAIL ESTIMATE".

In the interest of judicial economy, including savings in time, effort and expense by the Board and the parties, and to avoid duplicative discovery requests and responses, HAILUSA hereby requests that the Initial Opposition and Subsequent Opposition be consolidated for all purposes and that the deadlines set for the Subsequent Opposition be ordered for the consolidated proceeding.

II. ARGUMENT

Consolidation of separate proceedings before the Board is both appropriate and routine where, as here, the parties are the same and the cases involve common questions of law and fact. Regatta Sport Ltd v. Telux-Pioneer, Inc., 20 U.S.P.Q.2d 1154 (T.T.A.B. 1991); Estate of Biro v. Bic Corp., 18 U.S.P.Q.2d 1382 (T.T.A.B. 1991).1 In determining whether to consolidate, the Board weighs the savings in time, effort and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby. T.B.M.P. § 511; World Hockey Ass'n v. Tudor Metal Products Corp., 185 U.S.P.Q. 246 (T.T.A.B. 1975).

Here, both the Initial Opposition and Subsequent Opposition involve similar issues of fact and law. The marks at issue are very similar. Additionally, the goods and services at issue in the Initial Opposition and Subsequent Opposition are all related to "Automobile body repair and finishing for others" in International Class 037.

To litigate each proceeding independently, and on different schedules, would be a waste of time, effort and expense not only for the parties, but for the Board as well. See, OLA LOA LLC v. Remington Health Products, LLC, 2002 WL 31001990 (T.T.A.B. 2002) (holding that proceedings involving the same parties, facts and issues should be consolidated in the interest of judicial economy).

There is no conceivable prejudice to FHE if the Initial Opposition and Subsequent Opposition are consolidated. Consolidation of the proceedings would not cause delay and would relieve the parties of the burden of propounding and responding to identical discovery requests and motions.

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[1] *See also,* M.C.L Foods Inc. v. Brady Bunte, 2008 WL 449834 (T.T.A.B. 2008); Richemont International S.A. v. Susan Dell, Inc., 2006 WL 1126223 (T.T.A.B. 2006); Missiontrek Ltd. Co. v. Onfolio, Inc., 80 U.S.P.Q.2d 1381 (T.T.A.B. 2005); and Cheeseburger in Paradise, Inc. v. Jimmy Buffett, 2005 WL 847437 (T.T.A.B. 2005) (all holding that consolidation was appropriate inasmuch as the proceedings involved the same parties and common questions of law and fact).

In the interest of judicial economy, including the savings in time, effort and expense which may be gained from consolidation and the lack of prejudice to FHE if consolidation is granted, the above-captioned Initial Opposition and Subsequent Opposition should be consolidated.

III. CONCLUSION

In view of the foregoing, HAILUSA respectfully requests that the Initial Opposition and Subsequent Opposition be consolidated for all purposes and that the deadlines set for the Subsequent Opposition be ordered for the consolidated proceeding.

Date: January 8, 2015

/s/ Elliott J. Stein

Elliott J. Stein
STEVENS & LEE, P.C.
100 Lenox Drive
Suite 200
Lawrenceville, NJ 08648
Telephone: (609) 987-7050
Facsimile: (610) 371-8506
e-mail: ejs@stevenslee.com

Attorneys for Opposer Dent Perfect, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the date set forth below, a copy of the within document was served electronically and by regular mail, postage prepaid, upon:

William D. O'Neill, Esq.
Paul I. J. Fleischut, Esq.
SENNIGER POWERS LLP
100 N Broadway, 17TH Floor
Saint Louis, MO 63102-2728
WOneill@senniger.com
PFleischut@senniger.com

Dated: January 8, 2015

/s/ Elliott J. Stein
Elliott J. Stein