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

Proceeding	91218423
Party	Plaintiff Roy "Dusty" Rogers, Jr., as Trustee of the Children's Trust U/A Roy Rogers and Dale Evans Rogers Trust and Happy Trails, LLC
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Submission	Motion to Consolidate
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ROY "DUSTY" ROGERS, JR., AS TRUSTEE OF	:	
THE CHILDREN'S TRUST U/A ROY ROGERS	:	
AND DALE EVANS ROGERS TRUST,	:	
and	:	
HAPPY TRAILS, LLC,	:	
Opposers,	:	
	:	
v.	:	Opposition No. 91218423
	:	
MANIFATTURE 7 BELL S.P.A.,	:	Interlocutory Attorney:
	:	Elizabeth Winter
Applicant.	:	

ROY "DUSTY" ROGERS, JR., AS TRUSTEE OF	:	
THE CHILDREN'S TRUST U/A ROY ROGERS	:	
AND DALE EVANS ROGERS TRUST,	:	
and	:	
HAPPY TRAILS, LLC,	:	
Petitioners	:	
	:	
v.	:	Cancellation No. 92060421
	:	
MANIFATTURE 7 BELL S.P.A.,	:	Interlocutory Attorney:
	:	Benjamin U. Okeke
Registrant/Respondent.	:	

MOTION TO CONSOLIDATE

Opposers Roy "Dusty" Rogers, Jr., as Trustee of the Children's Trust U/A Roy Rogers and Dale Evans Rogers Trust and Happy Trails, LLC ("Opposers"), by and through its attorneys, McNeese Wallace & Nurick LLC, move this Honorable Board to consolidate the above-captioned cases, namely, Opposition No. 91218423 and Cancellation No. 92060421, stating:

1. On September 17, 2014, Opposers commenced an opposition proceeding, Opposition No. 91218423 (the "Opposition"), against Manifatture 7 Bell S.p.A. ("Applicant"), opposing its registration of the trademark ROY ROGER'S, Serial No. 85/931,769 ("Applicant's Applied-For Mark").

2. In the Opposition, Opposers pleaded that they either own or were granted an exclusive license to exploit all right, title, and interest in and to the intellectual property rights associated with the name and likeness of the late actor and singer Roy Rogers. Opposers also pleaded that Applicant's Applied-For Mark falsely suggests a connection with Roy Rogers, and that Applicant acted fraudulently in applying for registration of such mark. For these reasons, among others, Opposers pleaded that they would be damaged by the registration of Applicant's Applied-For Mark.

3. The Opposition currently is assigned to Interlocutory Attorney Elizabeth Winter.

4. On or about October 23, 2014, Opposers filed their Answer to the Opposition.

5. In conjunction with its Opposition, Opposers commenced a separate cancellation proceeding against Applicant, Cancellation No. 92060421 (the "Cancellation"), seeking to cancel Applicant's registrations for its two existing ROY ROGER'S trademarks, Registration Nos. 3,636,761 and 3,476,723 ("Applicant's Registered Marks").

6. In the Cancellation, Opposers pleaded that they either own or were granted an exclusive license to exploit all right, title, and interest in and to the intellectual property rights associated with the name and likeness of the late actor and singer Roy Rogers. Opposers also pleaded that Applicant's Registered Marks falsely suggest a connection with Roy Rogers, and that Applicant acted fraudulently in applying for or maintaining registration of such marks. For these reasons, among others, Opposers pleaded that they would be damaged by the continued registration of Applicant's Registered Marks.

7. The Cancellation currently is assigned to Interlocutory Attorney Benjamin U. Okeke.

8. Both proceedings were filed with the Board.

9. Both cases involve the same parties.

10. Both cases involve the same essential allegations, namely, that Applicant's Applied-For Mark and Applicant's Registered Marks falsely suggest a connection with Roy Rogers, and that Applicant acted fraudulently in applying for or maintaining registration of such marks.

11. The written discovery expected to be taken in each proceeding is likely to be the same.

12. The witnesses expected to be deposed in each proceeding are likely to be the same.

13. Accordingly, both cases present common issues of law and fact and should be consolidated pursuant to Federal Rule of Civil Procedure 42, as made applicable by Trademark Rule 2.116(a).

14. On November 21, 2014, the parties participated in the Opposition discovery and settlement conference (the "Conference").

15. During the Conference, Opposers requested Applicant's stipulation to this Motion, which was denied. Opposers' second request via email on December 3, 2014, was unanswered.

16. Opposers request that the Board reset the deadlines for the Consolidated Opposition and Cancellation to conform with the trial order dated November 25, 2014, in Cancellation No. 92060421.

17. As the parties already have conducted the Conference in the Opposition, Opposers believe it would be duplicative and unnecessary to hold another discovery and settlement conference.

WHEREFORE, Opposers move this Honorable Board to consolidate the above-captioned cases for purposes of the discovery process, testimony proceedings, and oral hearing.

McNEES WALLACE & NURICK LLC

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Happy Trails, LLC

Dated: December 29, 2014

