

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: February 9, 2015

Opposition No. 91218423(Parent)
Cancellation No. 92060421

Roy "Dusty" Rogers, Jr., as Trustee of
the Children's Trust U/A Roy Rogers
and Dale Evans Rogers Trust and
Happy Trails, LLC

v.

Manifatture 7 Bell S.p.A.

Karl Kochersperger, Paralegal Specialist:

Consolidation

On December 29, 2014, opposer/petitioner filed a motion, to consolidate Opposition No. 91218423 and Cancellation No. 92060421.¹ The Board notes initially that applicant/respondent has not yet filed its answer in each proceeding for which consolidation is sought. See TBMP Section 511 (2d ed. rev. 2004).

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

¹ Applicant's response (filed January 19, 2015) is noted. Applicant notes that it does not oppose the motion to consolidate in its response.

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

In view thereof, opposer's motion to consolidate is hereby granted.

Opposition No. 91218423 and Cancellation No. 92060421 are hereby consolidated and may be presented on the same record and briefs. The record will be maintained in Opposition No. 91218423 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 in Cancellation No. 92060421, respondent must file its answer in each proceeding,² 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

² Respondent's time to file an answer will be reset if and when proceedings are resumed. The suspension of these consolidated proceedings is to be discussed at the end of this order.

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.

Suspension

The motion (filed December 29, 2014) to suspend this proceeding pending final determination of Civil Action No. 1:14-cv-01517-UNA filed in the The United States District Court for the District of Delaware is granted as uncontested.³ *See Trademark Rules 2.127(a) and 2.117(a).*

Accordingly, proceedings are suspended pending final disposition of the civil action.⁴

Within twenty days after the final determination of the civil action, the parties shall so notify the Board so that this proceeding may be called up for appropriate action.⁵ Such notification to the Board should include a copy of any final order or final judgment which issued in the civil action.

During the suspension period, the parties must notify the Board of any address changes for the parties or their attorneys. In addition, the parties

³ Opposer's response (filed January 20, 2015) is noted. Opposer notes that it does not oppose the motion to suspend in its response. If a copy of the pleadings in the civil action was not filed with the motion to suspend, applicant is allowed until twenty days from the mailing date of this order in which to file a copy of the pleadings.

⁴ It is noted that Cancellation No. 92060421 has already been suspended on February 9, 2015, pending disposition of the civil action.

⁵ A proceeding is considered to have been finally determined when a decision on the merits of the case (*i.e.*, a dispositive ruling that ends litigation on the merits) has

Opposition No. 91218423, Cancellation No. 92060421

are to promptly inform the Board of any other related cases, even if they become aware of such cases during the suspension period. Upon resumption, if appropriate, the Board may consolidate related Board cases.

been rendered, and no appeal has been filed therefrom, or all appeals filed have been decided. *See* TBMP § 510.02(b).