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

Proceeding	91219070
Party	Defendant DROPBOX, INC.
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Submission	Motion to Consolidate
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Date	12/05/2014
Attachments	Motion to Consolidate.pdf(806350 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THRU INC., Opposer/Petitioner, v. DROPBOX, INC., Applicant/Registrant.	Opposition No: 91219070 Cancellation No.: 92058621 MOTION TO CONSOLIDATE Serial No. 85012206 Registration No. 4478345

MOTION TO CONSOLIDATE

Pursuant to Federal Rule of Civil Procedure 42(a) and TBMP § 511, Applicant/Registrant Dropbox, Inc. ("Dropbox") moves for an order consolidating Opposition No. 91219070 with Cancellation No. 92058621. At this early period in both proceedings, consolidation is the far more efficient and logical approach.[1]

The Board may consolidate multiple actions where the actions involve common questions of fact and law. Fed. R. Civ. P. 42(a); TBMP § 511. In determining whether to consolidate cases, 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. TBMP § 511.

Both of the proceedings at issue here involve common questions of fact and law because determination of the parties' respective rights hinges on the same questions: (i) which party owns superior rights to the mark DROPBOX and (ii) whether there is a likelihood of confusion. Furthermore, the two proceedings involve the same parties and the same trademark. In both

1 Discovery has not yet commenced in Cancellation No. 92058621. It is scheduled to open on December 7, 2014.

proceedings, Opposer/Petitioner Thru Inc., citing its pending application Serial No. 85475272, is challenging Dropbox's registration of its DROPBOX mark.

If these cases are not consolidated, the parties will have to take and enter repetitive testimony and evidence in separate cases, file repetitive sets of briefs, and prepare for and attend separate hearings on similar issues. Consequently, the Board would have to waste its efforts reviewing the same record, reading repetitive briefs and preparing for duplicative hearings. On the other hand, consolidation of the cases would result in a significant savings of time and expense for both parties, since each party would be taking and entering testimony only once, filing only one set of briefs, and preparing for and attending only one hearing. Consolidation would therefore prevent a wasteful duplication of effort and would render benefits to the Board in terms of judicial economy. Furthermore, neither party will be prejudiced by consolidation.

Dropbox therefore respectfully requests that the Board grant its motion to consolidate Opposition No. 91219070 with Cancellation No. 92058621 and reset dates for the consolidated proceeding by adopting the dates as set forth in the Board's Order dated October 28, 2014 in the opposition proceeding. *See* TBMP § 511.

Opposer/Petitioner has consented to consolidation of these proceedings.

Dated: December 5, 2014

WILSON SONSINI GOODRICH & ROSATI
A Professional Corporation

By: _____
John L. Slafsky
Stephanie S. Brannen

Attorneys for Applicant/Registrant
DROPBOX, INC.

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CERTIFICATE OF SERVICE BY MAIL

I, Shelie Plourde, declare:

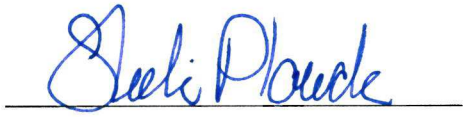
I am employed in Santa Clara County. I am over the age of 18 years and not a party to the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304-1050.

I am readily familiar with Wilson Sonsini Goodrich & Rosati's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be deposited with the United States Postal Service on this date.

On this date, I served **MOTION TO CONSOLIDATE** on each person listed below, by placing the document described above in an envelope addressed as indicated below, which I sealed. I placed the envelope for collection and mailing with the United States Postal Service on this day, following ordinary business practices at Wilson Sonsini Goodrich & Rosati.

John M. Cone
Hitchcock Evert LLC
P.O. Box 131709
Dallas, TX 75313-1709

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Palo Alto, California on December 5, 2014.



Shelie Plourde