

ESTTA Tracking number: **ESTTA667794**

Filing date: **04/21/2015**

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

Proceeding	91220460
Party	Defendant Brookshire Grocery Company
Correspondence Address	ELIZABETH K STANLEY BAKER BOTTS LLP 2001 ROSS AVE STE 600 DALLAS, TX 75201-2980 UNITED STATES daltmdept@bakerbotts.com
Submission	Motion to Consolidate
Filer's Name	Paul J. Reilly
Filer's e-mail	paul.reilly@bakerbotts.com, tyler.beas@bakerbotts.com, jill.errera@bakerbotts.com, cecily.porterfield@bakerbotts.com, daltm- dept@bakerbotts.com
Signature	/Paul J. Reilly/
Date	04/21/2015
Attachments	BROOKSHIRES - Motion to Consolidate.pdf(344068 bytes )



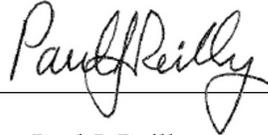
Pursuant to Fed. R. Civ. P. 42(a) and TBMP §§ 510, 511, Opposer Brookshire Brothers, Inc. (“**BBI**” or “**Opposer**”) and Applicant Brookshire Grocery Company (“**BGC**” or “**Applicant**”) (collectively hereinafter, the “**Parties**”) jointly move to consolidate the above-captioned Opposition proceedings into a single proceeding in the interest of judicial and pecuniary economy, request that the proceedings in Oppositions Nos. 91220460, 91220462, 91220463, and 91221190 be governed by the current scheduling order in Opposition No. 91221198 from and after the date of consolidation, and further jointly move to suspend the above-identified proceedings pending the Trademark Trial and Appeal Board’s (“**Board**”) determination of this motion.

The above-referenced Oppositions all involve identical parties and common questions of law and/or fact, including whether the registration of the opposed applications will damage BBI. Further, consolidation would save time, effort and expense for the Board and both Parties, and will not cause any prejudice or inconvenience to either party as both Parties have consented to this Motion. *See M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008) (proceeding involved identical parties, identical registrations and related issues); *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293, 1297 (TTAB 1997) (both proceedings involved the same mark and virtually identical pleadings); *Ritchie v. Simpson*, 41 USPQ2d 1859, 1860 (TTAB 1996) (cases consolidated despite variations in marks and goods), *rev’d on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999). Additionally, the fact that Applicant has not yet filed its Answers to the March 23, 2015 Notices of Opposition should not prevent consolidation. *See* TBMP § 511 (noting that the Board may order cases consolidated prior to the filing of answers in each case sought to be consolidated).

WHEREFORE, in view of the foregoing, the Parties respectfully request an Order granting consolidation of the above-referenced proceedings, and setting the current scheduling order in Opposition No. 91221198 as the governing scheduling order for these consolidated proceedings.

Respectfully submitted,

BAKER BOTTS LLP

By: \_\_\_\_\_

Dated: April 21, 2015

Paul J. Reilly  
Elizabeth K. Stanley  
Tyler M. Beas  
2001 Ross Avenue, Suite 600  
Dallas, Texas 75201-2980  
Telephone No. (214) 953-6849  
Facsimile No. (214) 661-4849

**Attorneys for Applicant,  
BROOKSHIRE GROCERY COMPANY**

AND

COX SMITH MATTHEWS INCORPORATED

By: /jdanielharkins/\_\_\_\_\_

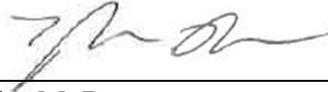
J. Daniel Harkins, Esq.  
112 East Pecan Street, Suite 1800  
San Antonio, Texas 78205  
Telephone No. (210) 554-5285  
Facsimile No. (210) 226-8395

**Attorney for Opposer,  
BROOKSHIRE BROTHERS, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of April, 2015, I served, via email and Federal Express overnight courier, a true and correct copy of the foregoing JOINT MOTION TO CONSOLIDATE to:

J. Daniel Harkins, Esq.  
COX SMITH MATTHEWS INCORPORATED  
112 East Pecan Street, Suite 1800  
San Antonio, TX 78205  
[ipdocket@coxsmith.com](mailto:ipdocket@coxsmith.com)



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Tyler M. Beas