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

Proceeding	91221325
Party	Plaintiff Red Bull GmbH
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Date	11/11/2015
Attachments	RB v. Jordi Nogues - Opposition and Cancellation - Motion to Consolidate Final.pdf(24147 bytes)

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being filed electronically with the Trademark Trial and Appeal Board via ESTTA, on the date below:
November 11, 2015

/Angelique M. Riordan/
Angelique M. Riordan

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

<p>RED BULL GMBH,</p> <p style="text-align: center;">Opposer/Petitioner</p> <p style="text-align: center;">v.</p> <p>JORDI NOGUES¹/JORDI NOGUES, S.L.,</p> <p style="text-align: center;">Applicant/Registrant</p>	<p>)</p>	<p>Opposition No.: 91-221,325</p> <p>Serial No.: 86/324,277</p> <p>Trademark:</p> <div style="text-align: center;">  </div> <p>Cancellation No.: 92-061,202</p> <p>Registration No.: 4,471,520</p> <p>Trademark:</p> <div style="text-align: center;">  <p>BADTORO</p> </div>
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MOTION TO CONSOLIDATE PROCEEDINGS

Opposer/Petitioner, RED BULL GMBH (“Red Bull”), by and through its attorneys, hereby moves the Trademark Trial and Appeal Board (“Board”) for an order consolidating the above-captioned related proceedings – Opposition No. 91-221,325 and Cancellation No. 92-061,202.² Please note that this motion is being filed concurrently in Opposition No. 91-221,325 and Cancellation No. 92-061,202.

The Board may order consolidation of pending cases involving common questions of law or fact.³ Here, the above-captioned proceedings share: (1) common parties; (2) substantially similar and identical witnesses; (3) the same marks asserted by Red Bull; (4) substantially similar marks at issue; and (5) substantially similar and identical allegations regarding confusion, false suggestion of a connection between Red Bull’s marks and Nogues’ marks, dilution, use

¹ Improperly amended to Jordi Nogues, S.L.
² Prior to filing this motion, Red Bull contacted JORDI NOGUES/JORDI NOGUES, S.L.’s (“Nogues”) attorney to obtain consent to this consolidation. Nogues’ attorney has indicated that he will let us know in due course whether they will provide their consent to consolidation. Based on this, Red Bull’s motion to consolidate may or may not be opposed by Nogues.
³ Fed. R. Civ. P. 42(a); TBMP Section 511.

of/bona fide intent to use Nogues' marks in commerce, and false declaration. Thus, as identical and common questions of fact and law will need to be addressed in each proceeding, consolidation is appropriate.⁴

Further, consolidation is appropriate if it will benefit both parties by resulting in saving time, effort and expense.⁵ Here, no prejudice or inconvenience will be caused by consolidation of the proceedings as the Board-set schedules for these proceedings only differ by one day. Both parties will be benefited by consolidation of these proceedings. Accordingly, pursuant to TBMP Section 511, Red Bull requests that the Board follow its standard procedure and, upon consolidation, reset the dates for the consolidated proceeding by adopting the dates as set in the most recently institutes of the cases being consolidated.

Based on the above, Red Bull respectfully requests that the Board issue an order granting this Motion to Consolidate Proceedings, wherein the consolidated schedule is consistent with the more recently instituted Cancellation No. 92-061,202.

Dated: November 11, 2015

Respectfully submitted,

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⁴ See *M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008); *World Hockey Ass'n v. Tudor Metal Products Corp.*, 185 USPQ 246, 248 (TTAB 1975) (consolidation ordered where issues were substantially the same and consolidation would be advantageous to both parties).

⁵ See TBMP Section 511.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION TO CONSOLIDATE PROCEEDINGS** is being served on November 11, 2015, by deposit of same in the United States Mail, first class postage prepaid, in an envelope addressed to counsel for Applicant/Registrant Jordi Nogues/Jordi Nogues, S.L. at:

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