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

Proceeding	91221566
Party	Plaintiff Stanley Logistics, LLC
Correspondence Address	JAMES R DAVIS II ARENT FOX LLP 1717 K STREET NW WASHINGTON, DC 20006-5344 UNITED STATES Davis.Jim@arentfox.com, mitchell.justine@arentfox.com, TMdock- et@arentfox.com
Submission	Reply in Support of Motion
Filer's Name	James R. Davis, II
Filer's e-mail	Davis.Jim@arentfox.com, mitchell.justine@arentfox.com
Signature	/Jim Davis/
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Attachments	OPPOSER'S REPLY BRIEF.pdf(127972 bytes) Exhibit A.pdf(311285 bytes)

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

STANLEY LOGISTICS, LLC	:	
	:	
Opposer	:	
	:	
v.	:	Opp. No. 91221566
	:	Opp. No. 91221141
JS PRODUCTS, INC.	:	
	:	
Applicant	:	

**OPPOSER'S REPLY BRIEF TO APPLICANT'S
MEMORANDUM IN OPPOSITION TO MOTION TO CONSOLIDATE**

Opposer Stanley Logistics, LLC, through its undersigned attorney, hereby replies to Applicant's Memorandum in Opposition to Opposer's Motion to Consolidate.

In essence, Applicant's opposition to consolidation is based on two specious claims: (1) the relevant goods are not related; and (2) Opposer's allegations of prior rights in the two oppositions are different. Neither claim is true.

I. The Board Already Has Found That the Goods Are Closely Related.

Contrary to Applicant's claims, the Board has found that flashlights and tools are closely related products. In *The Black and Decker Manufacturing Company v. Bright Star Industries, Inc.*, the Board determined there was a likelihood of confusion after finding that flashlights and workbench-vises are "closely related" and "both are hardware tools commonly used in both household and commercial situations". 220 U.S.P.Q. 890 (T.T.A.B. 1983). As the Board noted, "Both flashlights and portable workbench-vises are sold through industrial distributors, hardware stores, home centers, chain stores, discount stores, and various other retail outlets." *Id.*

In the present dispute this close relationship is illustrated by the fact that Opposer sells, and Applicant intends to sell, both flashlights and tools.

While consolidation does not require that the underlying goods be identical or even closely related, it is clear from the nearly-identical nature of the Notices of Opposition and the decision in *The Black and Decker Manufacturing Company v. Bright Star Industries, Inc.* that the flashlights and tools at issue in the oppositions are closely related and sold through the same trade channels to the same consumers.

There will therefore be significant if not total overlap during discovery, with experts and witnesses, and in the claims and defenses set forth in pleadings, motions, etc. This is precisely the type of situation that warrants consolidation to avoid duplication and to save time, effort and expense.

II. The Oppositions Make Nearly Identical Factual and Legal Claims.

It is inaccurate and misleading for Applicant to allege that Opposer's prior rights in the two oppositions are different. Applicant's Memorandum, p. 2. Both oppositions claim priority, cite the same federal trademark registrations, and allege common law rights. Indeed, the oppositions are near mirror images of each other.

As an example, Paragraph 11 of both Notices of Opposition are identical and refer to Opposer's common law rights ("the goods Stanley provides under its PROTO marks") and registered rights ("the goods protected under Stanley's federal trademark registrations"). Opposer will substantiate and rely on its common law and registered rights in both oppositions.

Curiously Applicant supports its position by claiming that "Opposer previously deleted its only lighting related product, namely, '*power timing lights*' from Reg. No. 889361." Appl.

Memo., p. 2. Applicant's characterization of power timing lights is inaccurate and entirely irrelevant to this motion to consolidate.

As the attached Wikipedia entry shows, power timing lights are not properly classified as "lighting related" products, any more than a cigarette lighter would be. Timing lights are connected to the ignition circuit of internal combustion engines to set the ignition timing. Unlike the flashlights and portable utility lights at issue in these oppositions, timing lights are not used to illuminate work areas and Applicant's reference to that product is misleading and irrelevant.

III. Consolidation is Appropriate.

As it must, Applicant concedes that the opposition proceedings involve the same parties and marks. Contrary to Applicant's allegations, the opposition proceedings also involve highly-related products and common or even identical questions of law and fact. As a result the same evidence and legal analysis will determine the result in each proceeding. By consolidating the two cases the Board will save itself and the parties significant time, effort, and expense, and neither party will be prejudiced or inconvenienced.

Accordingly, Opposer requests consolidation of the proceedings.

STANLEY LOGISTICS, LLC

By /s/ Jim Davis

James R. Davis, II
Michael A. Grow
Arent Fox LLP
1717 K Street, NW
Washington, DC 20006-5344
(202) 857 6169

Attorney for Opposer

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Opposer's Reply Brief to Applicant's Memorandum in Opposition to Motion to Consolidate is being served upon Applicant's counsel of record in the PTO and TTAB

Paul G. Juettner
Greer Burns & Crain Ltd.
300 South Wacker Drive, Suite 2500
Chicago, IL 60606
pjuettner@gbclaw.net, tproehl@gbclaw.net

by first class mail, postage prepaid, and as agreed by the parties, via email on June 10, 2015.

/s/ Jim Davis



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Timing light

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A **timing light** is a stroboscope used to dynamically set the ignition timing of an Otto cycle or similar internal combustion engine equipped with a distributor. Modern electronically controlled passenger vehicle engines require use of a scan tool to display ignition timing.

The timing light is connected to the ignition circuit and used to illuminate the timing marks on the engine's crankshaft pulley or flywheel, with the engine running. The apparent position of the marks, frozen by the stroboscopic effect, indicates the current timing of the spark in relation to piston position. A reference pointer is attached to the flywheel housing or other fixed point, and an engraved scale gives the offset between the spark time and the top dead centre position of the piston in the cylinder. The distributor can be rotated slightly until the reference pointer aligns with the specified point on the timing scale.

Fuel-injected engines, or engines with microprocessor controls may require special procedures to allow basic spark timing to be observed without control effects from the engine computer. On most automotive engines, the timing is set based on the #1 cylinder.^[1] In few cases an engine is timed off another cylinder, such as the International Harvester V8 engines, which use #8, and the Isuzu 4Z series four-cylinder, which is timed off the #4 cylinder, or the 3 cylinder Saab two-stroke engine which is timed on the middle (#2) cylinder.

Simple timing lights may just contain a neon lamp operated by the energy provided by the ignition circuit. Timing lights using xenon strobe lamps electronically triggered by the spark provide brighter light, allowing use of the timing lamp under normal shop lighting or daylight conditions.

A timing light may be a self-contained instrument, but is sometimes combined with a voltmeter, RPM meter, and a dwell angle meter, or may be incorporated into a more comprehensive instrument such as an engine analyser. Self-contained units used to time automotive engines have an inductive pickup that clamps around the proper spark plug wire and serves as the trigger for the strobe. Power for the strobe comes directly from the vehicle's battery. Some older timing lights require the removal of the spark plug boot in order to attach a direct pickup between the wire's terminal and the centre conductor of the spark plug.



Timing light, combination instrument with RPM, volt meter and dwell angle meter. The actual light is on the far end. The black clamp connects to the battery -, the red clamp to +, the green one to the breaker side of the coil (for RPM), the big black clamp in the foreground is an inductive pick-up that clamps around a spark plug wire.

References [edit]

- Mark Schnubel *Shop manual for advanced engine performance*, Cengage Learning, 2005 ISBN 1-4018-7787-7, page 52-53

See also [edit]

- Firing order

Categories: [Engine tuning instruments](#)

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