

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: December 1, 2015

Opposition No. 91218576
(Parent Case)
Opposition No. 91222903

Franciscan Vineyards, Inc.

v.

Davis Estates, LLC

Nicole Thier, Paralegal Specialist:

On October 28, 2015, Applicant filed a motion to consolidate Opposition Nos. 91218576 and 91222903. The Board notes initially that Applicant has filed its answer in each proceeding for which consolidation is sought.

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby.

Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or

upon the Board's own initiative. *See, e.g., Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993).

It is noted that the parties to these proceedings are identical, and the issues are similar or related. Accordingly, the motion to consolidate is granted. Opposition Nos. 91218576 and 91222903 are hereby consolidated and may be presented on the same record and briefs. *See Hilson Research Inc. v. Society for Human Resource Management, supra*; and *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Opposition No. 91218576 as the “parent case.” From this point on, only a single copy of all motions and papers should be filed, and each such motion or paper should be filed in the parent case only, but caption all consolidated proceeding numbers, listing the “parent case” first.¹

Despite being consolidated, 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; a copy of the decision shall be placed in each proceeding file.

Upon consolidation, the Board will reset dates for the consolidated proceeding, usually by adopting the dates as set in the most recently instituted of the cases being consolidated. Trial dates remain as set forth below.

¹ The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

Opposer's answer to the counterclaim in Opposition No. 91222903 is due by December 19, 2015 and the remaining trial dates remain as reset by the Board in its October 20, 2015 order, copied below.

Deadline for Discovery Conference	December 19, 2015
Discovery Opens	December 19, 2015
Initial Disclosures Due	January 18, 2016
Expert Disclosures Due	May 17, 2016
Discovery Closes	June 16, 2016
Plaintiff's Pretrial Disclosures	July 31, 2016
30-day testimony period for plaintiff's testimony to close	September 14, 2016
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	September 29, 2016
30-day testimony period for defendant and plaintiff in the counterclaim to close	November 13, 2016
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	November 28, 2016
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	January 12, 2017
Counterclaim Plaintiff's Rebuttal Disclosures Due	January 27, 2017
15-day rebuttal period for plaintiff in the counterclaim to close	February 26, 2017
Brief for plaintiff due	April 27, 2017
Brief for defendant and plaintiff in the counterclaim due	May 27, 2017
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	June 26, 2017
Reply brief, if any, for plaintiff in the counterclaim due	July 11, 2017

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.