

ESTTA Tracking number: **ESTTA696064**

Filing date: **09/15/2015**

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

Proceeding	91222914
Party	Defendant Qualtrics, LLC
Correspondence Address	STEPHEN A ZEMANICK DORSEY & WHITNEY LLP 1400 WEWATTA ST STE 400 DENVER, CO 80202-5549 UNITED STATES docketing-dv@dorsey.com, sinor.scott@dorsey.com, porter.karen@dorsey.com, docket.denver@dorsey.com, pellant.jessie@dorsey.com, wild- in.cindy@dorsey.com
Submission	Other Motions/Papers
Filer's Name	Scott P. Sinor
Filer's e-mail	sinor.scott@dorsey.com, pellant.jessie@dorsey.com, port- er.karen@dorsey.com, docket.denver@dorsey.com
Signature	/s/ Scott P. Sinor
Date	09/15/2015
Attachments	VOCALIZE Motion to Consolidate.pdf(12676 bytes)

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

In Re: Application Serial No. 86/426,779
For the Mark: VOCALIZE
Filed: October 17, 2014
Published in the Official Gazette: March 17, 2014

Jordan Older)	
)	
Opposer)	
)	
v.)	Opp. No. 91222824
)	
Qualtrics, LLC)	
)	
Applicant)	

In Re: Application Serial No. 86/426,812
For the Mark: VOCALIZE
Filed: October 17, 2014
Published in the Official Gazette: March 24, 2015

Jordan Older)	
)	
Opposer)	
)	
v.)	Opp. No. 91222914
)	
Qualtrics, LLC)	
)	
Applicant)	

APPLICANT’S MOTION TO CONSOLIDATE

In accordance with Fed. R. Civ. P. 42(a) and TBMP § 511, Qualtrics, LLC (“*Applicant*”) hereby requests the Board to consolidate Opposition Proceeding No. 91222824 with Opposition Proceeding No. 91222914, (the “Pending Oppositions”) both filed by Jordan Older, (“*Opposer*”).

Applicant attempted to confer with Opposer on September 9, 2015 via email and has not received a response as to the Applicant's position on the Motion. In support of this motion Applicant states as follows:

The Board may order consolidation of cases pending before the Board when the cases involve common questions of law or fact. *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. TMBP § 511. *See also, e.g., World Hockey Ass'n v. Tudor Med. Prods. Corp.*, 185 USPQ 246, 248 (TTAB 1975).

The Pending Oppositions present common questions of law and fact. The parties in each proceeding are the same. The grounds for opposition are the same. The two opposed marks are identical, and the goods and services for which registration is sought are highly similar. *See Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154, 1156 (TTAB 1991) (consolidation appropriate in similar circumstances); *cf. Ritchie v. Simpson*, 41 USPQ2d 1859, 1860 (TTAB 1996) (consolidation appropriate when notices of opposition were highly similar and presented common questions of law and fact, notwithstanding "variations in the marks and goods involved"). The Notices of Opposition were filed within a week of each other, and both proceedings are at an early stage, such that the opportunity to conserve the resources of both parties and further the Board's interest in an efficient and economical resolution can be well served. TMBP § 511.

Consolidation will not prejudice or inconvenience either party. On the contrary, consolidation will be "advantageous to both parties in the avoidance of the duplication of effort,

loss of time, and the extra expense involved in conducting the proceedings [separately].” *World Hockey Ass’n*, 185 USPQ at 248.

WHEREFORE, Applicant respectfully requests that the Pending Oppositions be consolidated.

DORSEY & WHITNEY LLP

Date: September 15, 2015

By: s/ Scott P. Sinor
Scott Sinor
Jessie Pellant
1400 Wewatta Street, Suite 400
Denver, CO 80202
Tel: (303) 629-3400
E-mail: sinor.scott@dorsey.com
pellant.jessie@dorsey.com

ATTORNEYS FOR APPLICANT,
QUALTRICS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2015, the foregoing APPLICANT'S MOTION TO CONSOLIDATE was served upon the Opposer via first class mail to the following:

Mr. Jordan Older
1126 Via Arroyo Court
Ventura, CA 93003

s/ Karen Porter

Karen Porter