

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

CME/vw

Mailed: January 7, 2016

Opposition No. 91223882 (parent)

Opposition No. 91223940

*Express Communications, LLC*

*v.*

*Samsung Electronics Co., Ltd.*

**Christen M. English, Interlocutory Attorney:**

Applicant's motion to consolidate, filed November 12, 2015 in Opposition No. 91223882,<sup>1</sup> is **GRANTED** as conceded and well-taken.<sup>2</sup> Inasmuch as the parties to the proceedings are identical, the involved marks are related, and the proceedings involve common questions of law and fact, the Board finds that consolidation is appropriate and will avoid duplication of effort and unnecessary costs and delays.

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<sup>1</sup> The motion is not paginated as required by Trademark Rule 2.126(a)(5). Strict compliance with all applicable rules and procedures, including Trademark Rule 2.126, is required for all future filings.

<sup>2</sup> Applicant embedded in its motion a "motion" to suspend proceedings pending disposition of its motion to consolidate on the basis that Applicant has grounds to support compulsory counterclaims for abandonment in Opposition No. 91223882 "and the date Applicant may file an amended answer as a matter of course to include the counterclaims is November 16, 2015." Motion, p. 3. Elsewhere in its motion, however, Applicant explains that it filed compulsory counterclaims against the pleaded registrations in Opposition No. 91223940 – the same registrations pleaded in Opposition No. 91223882 – and acknowledges that "consolidation would obviate the expense Applicant would incur in amending its Answer in the earlier-filed Opposition No. 91223882 to include its compulsory counterclaims." *Id.* at p. 2. Accordingly, Applicant's motion to suspend is **DENIED**. If Applicant believes it is necessary to amend its answer in Opposition No. 91223882 it may file a motion for leave to amend. The Board notes that motions for leave to amend are liberally granted "when justice so requires." Fed. R. Civ. P. 15(a)(2).

Accordingly, the above-captioned cancellation proceedings are consolidated and may be presented on the same record and briefs. *See Helene Curtis Indus. Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989), and *Hilson Research Inc. v. Society for Human Res. Mgmt.*, 26 USPQ2d 1432 (TTAB 1993). The record will be maintained in Opposition No. 91223882 as the “parent” case. The parties should no longer file separate papers in connection with each proceeding, but should instead file only a single copy of each paper in the parent case. Each paper filed should bear the numbers of all the consolidated proceedings in ascending order, and the parent case should be designated as the parent case by following it with: “(parent),” as in the case caption set forth above.

Despite being consolidated, each proceeding retains its separate character. 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. *See Dating DNA LLC v. Imagini Holdings Ltd.*, 94 USPQ2d 1889, 1893 (TTAB 2010).<sup>3</sup>

Dates in these consolidated proceedings are reset as follows:

Deadline for Discovery Conference	February 1, 2016
Discovery Opens	February 1, 2016
Initial Disclosures Due	March 2, 2016
Expert Disclosures Due	June 30, 2016
Discovery Closes	July 30, 2016
Plaintiff's Pretrial Disclosures	September 13, 2016

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<sup>3</sup> 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 may consider whether further consolidation is appropriate.

Opposition Nos. 91223882 and 91223940

30-day testimony period for plaintiff's testimony to close	October 28, 2016
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	November 12, 2016
30-day testimony period for defendant and plaintiff in the counterclaim to close	December 27, 2016
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	January 11, 2017
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	February 25, 2017
Counterclaim Plaintiff's Rebuttal Disclosures Due	March 12, 2017
15-day rebuttal period for plaintiff in the counterclaim to close	April 11, 2017
Brief for plaintiff due	June 10, 2017
Brief for defendant and plaintiff in the counterclaim due	July 10, 2017
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	August 9, 2017
Reply brief, if any, for plaintiff in the counterclaim due	August 24, 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.