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

Proceeding	91221632
Party	Plaintiff TiVo Brands LLC
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Attachments	TiVo v. Tivoli - Joint Motion to Consolidate.pdf(20617 bytes)

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

In the matter of application Serial Nos. 86/326,210
For the Trademark TIVOTAPE
Published in the *Official Gazette* on December 23, 2014

TIVO BRANDS LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91221632 (parent)
)	
TIVOLI, LLC,)	
)	
Applicant.)	
_____)	

In the matter of application Serial Nos. 86/928,527
For the Trademark TIVOBAR
Published in the *Official Gazette* on May 3, 2016

TIVO BRANDS LLC,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91227791 (child)
)	
TIVOLI, LLC,)	
)	
Applicant.)	
_____)	

JOINT MOTION TO CONSOLIDATE OPPOSITIONS AND RESET DEADLINES

Pursuant to TBMP § 511 and Fed. R. Civ. P. 42(a), Opposer TiVo Brands LLC and Applicant Tivoli, LLC, by and through their respective undersigned counsel, hereby move the Board to consolidate Opposition No. 91221632 with Opposition No. 91227791 (together, the “Oppositions”) and to reset deadlines in the low-numbered parent case to correspond with the deadlines in the higher-numbered child case, as set forth in the Board’s May 10, 2016 Order setting dates for Opposition No. 91227791.

I. THE BOARD SHOULD CONSOLIDATE THE OPPOSITIONS.

“When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases.” TBMP § 511; *see also* Fed. R. Civ. P. 42(a). The proceedings need not involve identical marks or applications in order to be ripe for consolidation. *See Be Sport, Inc. v. Al-Jazeera Satellite Channel*, 115 USPQ2d 1765, 1766, n. 6 (TTAB 2015) (proceedings involving different marks sharing the same dominant component were “ripe for consolidation”); *Dating DNA LLC v. Imagini Holdings Ltd.*, 94 USPQ2d 1889, 1893 (TTAB 2010) (consolidating proceedings involving “identical parties, similar marks, and related or identical issues”); *Venture Out Properties LLC v. Wynn Resorts Holdings LLC*, 81 USPQ2d 1887, 1889 (2007) (consolidating four oppositions to applications for marks sharing the component “CABANA” and covering different but related services). When determining whether to consolidate, the Board weighs the benefits to the parties in terms of the savings in time, effort, and expense against any prejudice or inconvenience that consolidation may cause. *See World Hockey Association v. Tudor Metal Products Corporation*, 185 USPQ 246, 248 (TTAB 1975).

The Oppositions involve the same parties and highly similar applications. Both opposed applications include the TIVO component. In addition, the opposed TIVOBAR application covers all of the goods that were included in the opposed TIVOTAPE application. Thus, consolidation will serve the interest of judicial economy and ensure consistency in the Board’s decisions on common issues of law.

Additionally, consolidation would save the parties time, effort, and expense, and would not cause any prejudice or inconvenience to either party. In light of the common issues of fact and law, consolidation would be “advantageous to [the] parties in the avoidance of the duplication of effort, loss of time, and the extra expense involved in conducting the proceedings [separately].” *World Hockey*

Association, 185 USPQ at 248. As the parties' discovery obligations with respect to one proceeding are likely to be identical or nearly identical to that in the other proceeding, consolidation will prevent the inevitable burden of serving nearly identical versions of discovery and trial documents subject to different deadlines. Consolidation will eliminate the needless burden of preparing and presenting similar documents, testimony, and briefs during parallel trial periods. Further, as indicated by the consent of each party to this motion, neither party believes that it will suffer prejudice or inconvenience due to consolidation.

II. CONCLUSION.

For the reasons set forth above, the parties hereby respectfully request that the Board issue an order: (1) consolidating the Oppositions; and (2) resetting deadlines in Opposition No. 91221632 (parent) to mirror the Board's May 10, 2016 Order setting dates for Opposition No. 91227791 (child).

Respectfully submitted,

Date: May 13, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below a true and complete copy of the foregoing **JOINT MOTION TO CONSOLIDATE OPPOSITIONS AND RESET DEADLINES** was, pursuant to the parties' stipulation, served upon Applicant's correspondent for the subject application, via U.S. First Class Mail, postage prepaid to:

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Date: May 13, 2016

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