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

Proceeding	91227978
Party	Defendant The Insurance Source
Correspondence Address	GUY V FURAY THE INSURANCE SOURCE 114 TRADE STREET GREER, SC 29651 UNITED STATES guy@insure-u.com, team@insure-u.com
Submission	Motion to Consolidate
Filer's Name	Erik M. Pelton
Filer's e-mail	uspto@tm4smallbiz.com
Signature	/ErikMPelton/
Date	08/08/2016
Attachments	2016-08-08 WE MAKE HEALTH INSURANCE EASIER mot consolidate FINAL.pdf(90740 bytes)

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

Combined Insurance Company of America
Opposer,

v.

The Insurance Source,
Applicant.

Opposition No. 91227978
Cancellation No. 92064138

MOTION TO CONSOLIDATE

COMES NOW Applicant/Registrant The Insurance Source (“Applicant”) by and through Counsel, Erik M. Pelton & Associates, PLLC, and hereby moves to consolidate Opposition No. 91227978 with Cancellation No. 92064138. Pursuant to Fed. R. Civ. P. 42(a) and Trademark Rule 2.116(a), Applicant moves to consolidate Opposition No. 91227978 and Cancellation No. 92064138, and extend discovery and trial dates to conform to the schedule set forth in Cancellation No. 92064138.

Consolidation is appropriate because these two proceedings involve the identical parties, identical counsel, identical and related marks, and identical issues. The facts and allegations in both the Petition for Cancellation and Notice of Opposition are nearly identical, as are the facts, allegations, and affirmative defenses plead by Applicant in the Answer to Petition for Cancellation and the Amended Answer to Notice of Opposition.

BACKGROUND

Opposer/Petitioner Combined Insurance Company of America (“Opposer”) filed the Notice of Opposition on May 18, 2016. Opposition Doc. No. 1. The proceeding was instituted on May 19, 2016 as Opposition No. 91227978. Opposition Doc. No. 2 & 3.

On June 1, 2016, the Board extended Applicant’s time to answer after Applicant’s counsel withdrew from the matter. Opposition Doc. No. 7.

Applicant filed its *pro se* Answer on June 14, 2016. Opposition Doc. No. 8. Applicant did not attach a certificate of service or serve the document to Opposer under mistaken belief that the Board’s electronic filing service would automatically serve Opposer. Applicant served Opposer by email on July 14, 2016. Opposition Doc. No. 10, at 2.

On July 19, 2016, Opposer filed a Motion to Strike Applicant’s Answer, Opposition Doc. No. 10.

Opposer concurrently filed the Petition to Cancel, Cancellation Doc. No. 1, which was instituted on July 29, 2016. Cancellation Doc. Nos. 2-3.

On Aug. 5, 2016, Applicant filed a substitute power of attorney in the Opposition proceeding.

On Aug. 8, 2016, concurrently with this motion, Applicant has filed a response to Opposer’s motion to strike the Answer in the Opposition, along with a motion for leave to amend the Answer, and an answer to the Petition to Cancel.

ARGUMENT

When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. Fed. R. Civ. P. 42(a). In determining whether to consolidate proceedings, the Board weighs the savings in time, effort, and expense that may be

gained from consolidation against any prejudice or inconvenience that may be caused. TBMP § 511.

Here, consolidation of the pending opposition and cancellation proceedings would save the parties and the Board considerable time, effort, and expense, and would greatly simplify the proceedings. The parties in each proceeding are identical. The pleaded marks in each proceeding are identical, and the marks being opposed and objected to are nearly identical: both include the word portion WE MAKE HEALTH INSURANCE EASIER. The allegations and facts, as well as the affirmative defenses involved, are nearly identical issues of likelihood of confusion under Trademark Act Section 2(d), 15 USC § 1052(d). Consolidating the proceedings will create a unified set of deadlines and minimize redundant filings. Applicant cannot conceive any prejudicial effect of consolidation.

Accordingly, Applicant requests that the Board grant this Motion to Consolidate.

Dated this 8th day of August, 2016.



Erik M. Pelton
ERIK M. PELTON & ASSOCIATES, PLLC

PO Box 100637
Arlington, Virginia 22210
TEL: (703) 525-8009
FAX: (703) 525-8089

Attorney for Applicant/Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of Motion to Consolidate has been served on the following by delivering said copy on August 8, 2016, via First Class Mail, to counsel for Petitioner/Opposer at the following address:

TIMOTHY D PECSENYE
BLANK ROME LLP
ONE LOGAN SQUARE
PHILADELPHIA, PA 19103



By: _____

Erik M. Pelton, Esq.