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

Proceeding	91228567
Party	Plaintiff KDB Pty Ltd.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KDB PTY LTD.,

Opposer,

v.

KYLIE JENNER, INC.,

Applicant.

Opposition No. **91226456**

Application Serial No. 86/584,742

Mark: KYLIE

KDB PTY LTD.,

Opposer,

v.

KYLIE JENNER, INC.,

Applicant.

Opposition No. **91228567**

Application Serial No. 86/584,756

Mark: KYLIE

**OPPOSER'S MOTION AND BRIEF TO CONSOLIDATE OPPOSITION
PROCEEDINGS**

KDB Pty Ltd. (hereinafter referred to as “Opposer”), in the above-referenced opposition proceedings, through counsel, hereby moves the Trademark Trial and Appeal Board (hereinafter referred to as “Board”) to consolidate these proceedings pursuant to TBMP §511 and Fed. R. Civ. P. 42(a).

ARGUMENT

Consolidation of oppositions in *inter partes* proceedings before the Board is governed by Rule 42(a) of the Federal Rules of Civil Procedure. Federal Rule of Civil Procedure 42(a)

Consolidation provides that “*If actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.*” The Board routinely orders consolidation of opposition and cancellation proceedings where consolidation would be advantageous to the parties. *World Hockey Ass'n v. Tudor Metal Prod. Corp.*, 185 USPQ 246 (TTAB 1975); *Ritchie v. Simpson*, 41 USPQ2d 1859 (TTAB 1996) *rev'd on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); *Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993) (opposition and cancellation consolidated).

These opposition proceedings merit granting Opposer’s Motion to Consolidate. Here, Opposer instituted proceedings in opposition to registration of Applicant’s co-pending Trademark Application Serial Nos. 86/584,742 and 86/584,756 for “KYLIE.” Both oppositions are based on: Section 2(d) and Section 43(c) of the Lanham Act, 15 U.S.C. §1052(d) and 15 U.S.C. §1125(c), respectively; and 15 U.S.C. §1063(a).

The instant proceedings involve parallel parties, marks containing the name “KYLIE,” and common issues of fact and law.¹

Moreover, the opposition proceedings are expected to progress at similar stages. Accordingly, many of the discovery issues will be the same. Therefore, consolidation would

¹ *World Hockey Ass'n.* at 246 (oppositions involving similar marks and similar issues consolidated); *Federated Department Stores, Inc. v. Gold Circle Insurance Co.*, 226 USPQ 262, 263 (TTAB 1985) (consolidation permitted; issues of fact and law substantially similar).

avoid a duplication of efforts, loss of time, and the extra expense involved in conducting the proceedings alternately, without causing any prejudice or inconvenience to the parties.

CONCLUSION

Consolidation will preserve the resources of the Board, thereby serving the significant interest of judicial economy, as well as both parties. Accordingly, Opposer respectfully requests the Board to order consolidation of the proceedings.

Dated: June 22, 2016

Respectfully submitted,

/rgan/

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