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Filing date: **12/28/2009**

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

Proceeding	92049013
Party	Defendant INA GARTEN LLC
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Submission	Motion to Consolidate
Filer's Name	Michael Chiappetta
Filer's e-mail	mc@fzlz.com
Signature	/Michael Chiappetta/
Date	12/28/2009
Attachments	Stipulated Request to Consolidate Proceedings (F0559342).PDF (3 pages)(925768 bytes)

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

In the Matter of Application Serial No. 77/526,128 (Opposition No. 91192828)
Mark: BAREFOOT CONTESSA
Filed: July 18, 2008

In the Matter of Application Serial No. 77/550,245 (Opposition No. 91190791)
Mark: BAREFOOT CONTESSA
Filed: August 19, 2008

In the Matter of Trademark Registration No. 2,892,226 (Cancellation No. 92049013)
Mark: BAREFOOT CONTESSA
Registered: October 12, 2004

CONTESSA PREMIUM FOODS, INC., Petitioner, -against- INA GARTEN LLC, Registrant.	Opposition No. 91192828 and Opposition No. 91190791 (Request to consolidate with Cancellation No. 92049013)

STIPULATED REQUEST TO CONSOLIDATE PROCEEDINGS

Pursuant to Fed. R. Civ. P. 42(a) and T.B.M.P. Section 511, Petitioner/Opposer Contessa Premium Foods, Inc.. ("Petitioner") and Registrant/Applicant Ina Garten, LLC ("Registrant") (collectively, the "Parties") hereby request that Opposition Nos. 91192828 and 91190791 be consolidated with Cancellation No. 92049013. The Parties agree that it would be more efficient to have these proceedings consolidated, as the parties are the same, the marks at issue in the respective cancellation and oppositions are the same and the proceedings shall therefore involve common issues of law and fact. It is believed that consolidation of the cases will save considerable time, effort and expense since a substantial amount of the discovery, evidence and documents will overlap.

Registrant has already filed its Answer in all three proceedings (the Answer in Opposition No. 91192828 being filed contemporaneously with this stipulated request) and the Parties have held discovery conferences and commenced discovery in Opposition No. 91190791 and Cancellation No. 92049013. Accordingly, the Parties request that the discovery period in the consolidated proceeding be deemed open. Other than with respect to the opening of discovery, the Parties further request that the consolidated proceeding be governed by the discovery and trial schedule already set forth by the Board in connection with Opposition No. 91192828 (the latter- filed opposition proceeding), as may be ordered by the Board. That schedule is currently set as follows for all remaining dates:

Discovery Opens	OPENED
Initial Disclosures Due	3/7/2010
Expert disclosures due:	7/5/2010
Discovery closes:	8/4/2010
Plaintiff's pretrial disclosures:	9/18/2010
Plaintiff's 30-day trial period ends:	11/2/2010
Defendant's pretrial disclosures:	11/17/2010
Defendant's 30-day trial period ends:	1/1/2011
Plaintiff's rebuttal disclosures:	1/16/2011
Plaintiff's 15-day rebuttal period ends:	2/15/2011

Dated: New York, New York
December 28, 2009

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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Dated: Los Angeles, California
December 23, 2009

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