

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451**

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Mailed: March 3, 2014

Cancellation Nos. 92057288
92058292

(The) Blues Foundation, Inc.

v.

Daniel S. Marolt

Eric McWilliams, Supervisory Paralegal:

On December 4, 2013, petitioner filed a motion, with respondent's consent, to consolidate Cancellation Nos. 92057288 and 92058292. The Board notes initially that respondent has filed answers in each proceeding for which consolidation is sought. See TBMP § 511.

The Board may consolidate pending cases that involve common questions of law or fact. See Fed. R. Civ. P. 42(a); see also, *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). Inasmuch as the parties to the respective proceedings are the same and the proceedings involve common questions of law or fact, the Board finds that consolidation of the above-referenced proceedings is appropriate. Consolidation will avoid duplication of effort

Cancellation Nos. 92057288 and 92058292

concerning the factual issues and will thereby avoid unnecessary costs and delays.

In view thereof, petitioner's motion to consolidate is hereby granted. Cancellation Nos. 92057288 and 92058292 are hereby consolidated and may be presented on the same record and briefs. The record will be maintained in Cancellation No. 92057288 as the "parent" case. The parties should no longer file separate papers in connection with each proceeding, but file only a single copy of each paper in the parent case. Each paper filed should bear the numbers of all 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.

Consolidated cases do not lose their separate identity because of consolidation. Each proceeding retains its separate character and requires entry of a separate judgment. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleadings and a copy of the final decision shall be placed in each proceeding file. See Wright & Miller, Federal Practice and Procedure: Civil §2382 (1971). The parties are instructed to promptly inform the Board of any other related cases within the meaning of Fed. R. Civ. P. 42.

In view of the consolidation the disclosure, discovery, and trial dates are reset to coincide with the trial schedule from the child case and is copied below.

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| Initial Disclosures Due | 3/7/2014 |
| Expert Disclosures Due | 7/5/2014 |
| Discovery Closes | 8/4/2014 |
| Plaintiff's Pretrial Disclosures | 9/18/2014 |
| Plaintiff's 30-day Trial Period Ends | 11/2/2014 |
| Defendant's Pretrial Disclosures | 11/17/2014 |
| Defendant's 30-day Trial Period Ends | 1/1/2015 |
| Plaintiff's Rebuttal Disclosures | 1/16/2015 |
| Plaintiff's 15-day Rebuttal Period Ends | 2/15/2015 |

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 taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.¹²

¹The Board notes petitioner's appearance of counsel dated November 13, 2013, filed in Cancellation No. 92057288 and Respondent's appearance of counsel dated January 6, 2014, filed in Cancellation No. 92058292. The Board's records have been updated accordingly.

²Petitioner's motion to extend dated January 10, 2014, filed in Cancellation No. 92057288 is noted.