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Filing date: **10/07/2014**

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

Proceeding	92059987
Party	Plaintiff South Cone, Inc.
Correspondence Address	BROOKS R BRUNEAU PORZIO BROMBERG & NEWMAN PC 29 THANET ROAD SUITE 201 PRINCETON, NJ 08540 UNITED STATES brbruneau@pbnlaw.com
Submission	Motion to Consolidate
Filer's Name	Brooks R. Bruneau
Filer's e-mail	brbruneau@pbnlaw.com, dmcculloch@pbnlaw.com
Signature	/brooks r. bruneau/
Date	10/07/2014
Attachments	MOTION_TO_CONSOLIDATE_(Can).PDF(131851 bytes)

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

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SOUTH CONE, INC.	:	
	:	
Petitioner,	:	Cancellation No.: 92059987
	:	
Vs.	:	Registration No. 4,513,118
	:	Filing Date: August 22, 2012
JUN Co., Ltd .	:	Registration Date: April 15, 2014
	:	Mark: REEFUR (Stylized lettering)
Respondent.	:	
	:	
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MOTION TO CONSOLIDATE

Pursuant to Fed.R.Civ.P. 42(a) and TBMP Section 511, Petitioner, South Cone, Inc., hereby moves to consolidate the above captioned Cancellation action against Class 25 of the REEFUR (Stylized) Registration with Opposition 91218665 filed against Class 25 of the MAISON DE REEFUR trademark for the identical or nearly identical goods.

The Board has in its discretion to order cases consolidated prior to filing of an Answer. [See TBMP Section 511 and Section 305.] In this particular case, the parties are identical, and the Opposer/Petitioner, South Cone, Inc., was "technically" eligible to file a combined Notice of Opposition and Petition to Cancel under TBMP Section 305.02, but such a combined Complaint is required to be filed on paper because the Board's electronic system for Trademark Trials and

Appeals ("ESTTA") is not designed to accept such a combined complaint. However, Notices of Opposition against Madrid Protocol extension applications must be filed via ESTTA pursuant to TBMP 110.09(b). Accordingly, Opposer/Petitioner could not file a combined Notice of Opposition and Petition to Cancel due to the conflicting TBMP Rules 305.02 and 110.09(b), and therefore filed a separate Notice of Opposition and Petition to Cancel. However, at this stage, it wishes to combine the two matters, as is allowed under the Rules, for the reasons set forth below.

Opposer/Petitioner has objected to registration of the marks MAISON DE REEFUR and REEFUR (Stylized lettering) in connection with the Class 25 listing of goods which is identical for both the pending application (MAISON DE REEFUR) and the existing registration (REEFUR Stylized lettering). Accordingly, the issues are the same in both matters.

Opposer/Petitioner has asserted the same "REEF" trademark registrations, against the same Class 25 listing of goods for both the "MAISON DE REEFUR" application and the REEFUR (Stylized lettering) Registration, and asserted the same claims against both marks, namely, under Sections 2(a), 2(d), and 43(c). As a result, the cases involve common questions of law and fact, and by their very nature are ripe for consolidation so as to save the Board time and effort, as well as the parties, and so the case may proceed under one trial schedule, trial hearing and one trial brief.

Both cases were filed on September 19, 2014, and are in the exact same procedural position. A review of the Notice of Opposition to the MAISON DE REEFUR Application Serial No. 79131341 and the Petition to Cancel the REEFUR (Stylized lettering) U.S. Registration No. 4513118 will reveal that the issues are in fact identical. Moreover, the two marks are closely related in that "MAISON DE REEFUR" translates as "House of Reefur" and therefore the dominant element of that pending application is the term "REEFUR" which is the subject of U.S. Registration No. 4513118 for "REEFUR (Stylized lettering)". In fact, these two matters are ripe for sua sponte

consolidation by the Board once it became clear that the parties are identical, the claims are identical, the listed goods being challenged are identical, and the marks are nearly identical. See *Venture Out Properties, LLC v. Winn Resorts Holdings, LLC*, 81 USPQ 2d 1887, 1889 (TTAB 2007) [consolidation ordered sua sponte] and *8440 LLC v. Midnight Oil Co.*, 59 USPQ 2d 1541 (TTAB 2001) [opposition and cancellation proceedings consolidated on Board's own initiative).

For the foregoing reasons, it is respectfully requested that the Board consolidate these two nearly identical actions set forth in the Notice of Opposition for Matter No. 91218665 and the Petition to Cancel set forth in Matter No. 92059987. In an abundance of caution, Opposer/Petitioner's counsel has filed this identical motion in connection with the other proceeding so that the reasoning for consolidation is made of record in both the Opposition Cancellation Actions.

Respectfully submitted:

SOUTH CONE, INC.

Date: 10/7/14

BY: Brooks R. Bruneau

Brooks R. Bruneau
Attorney for Opposer
PORZIO, BROMBERG & NEWMAN, PC
29 Thanet Road, Suite 201
Princeton, NJ 08540
Tel: 609-924-8555

CERTIFICATE OF ELECTRONIC FILING

I hereby certify this Notice of Opposition was electronically filed with the Trademark Trial and Appeal Board this 7th day of Oct., 2014.

Brooks R. Bruneau
(Signature)

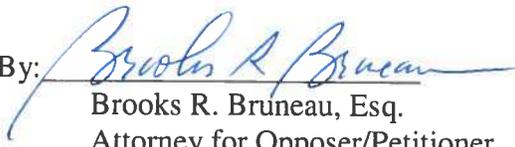
10/7/14
(Date of Signature)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion To Consolidate was served upon counsel of record listed below, via First Class Mail, Postage Prepaid, on this 7th day of Oct., 2014, addressed to:

Joan Optican Herman, Esq.
Hovey Williams LLP
10801 Mastin Blvd., Suite 1000
84 Corporate Woods
Overland Park, KS 66210

Dated: 10/7/14

By: 
Brooks R. Bruneau, Esq.
Attorney for Opposer/Petitioner
PORZIO, BROMBERG & NEWMAN, PC
29 Thanet Road, Suite 201
Princeton, NJ 08540
Tel: (609) 924-8555
Fax: (609) 924-3036