

ESTTA Tracking number: **ESTTA652703**

Filing date: **01/28/2015**

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

Proceeding	91215931
Party	Plaintiff McCormick & Company, Incorporated
Correspondence Address	JORDAN S WEINSTEIN BARNES & THORNBURG LLP 1717 PENNSYLVANIA AVENUE NW , SUITE 500 WASHINGTON, DC 20006 UNITED STATES jweinstein@btlaw.com, dbondurant@btlaw.com, docketingtm-dc@btlaw.com
Submission	Motion to Consolidate
Filer's Name	Jordan S. Weinstein
Filer's e-mail	jweinstein@btlaw.com, dbondurant@btlaw.com, docketingtm-dc@btlaw.com
Signature	/jsw/
Date	01/28/2015
Attachments	555327-Motion to Consolidate on Consent.pdf(25557 bytes )

Attorney Docket No.: 60605-555327

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

---

McCormick & Company, Incorporated,

Opposer,

v.

Beaver Street Fisheries, Inc.,

Applicant.

---

**Opposition No. 91/215,931**

**Appl. Serial No. 86/074,767**

**Mark: GRILLMAN'S (Stylized)**

McCormick & Company, Incorporated,

Petitioner,

v.

Beaver Street Fisheries, Inc.,

Registrant.

---

**Cancellation No. 92/606,628**

**U.S. Reg. No. 4,646,275**

**Mark: GRILLMAN'S**

**MCCORMICK & COMPANY, INCORPORATED'S CONSENTED MOTION TO**  
**CONSOLIDATE PURSUANT TO FED.R.CIV.P. 42(a)**

McCormick & Company, Incorporated, by and through its attorneys, hereby moves the Trademark Trial and Appeal Board ("Board") under Rule 42(a), Federal Rules of Civil Procedure, to order the consolidation of Opposition No. 91/215,931 and Cancellation No. 92/606,628. The proceedings involve the same parties, McCormick & Company, Incorporated

and Beaver Street Fisheries, Inc.; and they involve common questions of fact and law. TBMP §511 (2014). Specifically, both proceedings involve Opposer/Petitioner McCormick's assertions



that Applicant/Registrant Beaver Street Fisheries, Inc.'s design mark (in the opposition) and word mark GRILLMAN'S (in the cancellation) are likely to be confused with McCormick's registered GRILL MATES marks. The goods identified by Beaver Street Fisheries, Inc.'s application and registration at issue are the same. McCormick has asserted the same registrations and rights in both proceedings. The parties have agreed to consolidation of the two proceedings in a December 29, 2014 e-mail exchange.

Counsel for the parties have agreed that their discovery conference held in Opposition No. 91/215,931 meets the obligation for the Discovery Conference in Cancellation No. 92/606,628; and that the Mandatory Initial Disclosures exchanged in Opposition No. 91/215,931 will serve as the Initial Disclosures for Cancellation No. 92/606,628. The parties have further agreed that the written discovery already taken in Opposition No. 91/215,931 may be used in Cancellation No. 92/606,628, and that any discovery taken after consolidation may be used in both proceedings.

In accordance with TBMP §511 (2014), counsel for the parties request that the Board adopt the dates for the consolidated action as currently set forth in Cancellation No. 92/215,931 as follows:

Time to Answer	2/15/2015 – completed
Deadline for Discovery Conference	3/17/2015 – completed
Discovery Opens	3/17/2015
Initial Disclosures Due	4/16/2015 – completed

Expert Disclosures Due	8/14/2015
Discovery Closes	9/13/2015
Plaintiff's Pretrial Disclosures	10/28/2015
Plaintiff's 30-day Trial Period Ends	12/12/2015
Defendant's Pretrial Disclosures	12/27/2015
Defendant's 30-day Trial Period Ends	2/10/2016
Plaintiff's Rebuttal Disclosures	2/25/2016
Plaintiff's 15-day Rebuttal Period Ends	3/26/2016

Wherefore, it is respectfully requested that the Board grant the Consented Motion and consolidate Opposition No. 91/215,931 and Cancellation No. 92/606,628, adopting the schedule as set forth above.

Respectfully submitted,

BEAVER STREET FISHERIES, INC.

McCORMICK & COMPANY, INCORPORATED

/GDK/ - signed with express consent  
 - Jordan S. Weinstein /jsw/

By: \_\_\_\_\_  
 Kevin G. Smith  
 Gary D. Krugman  
 SUGHRUE MION, PLLC  
 2100 Pennsylvania Avenue, NW  
 Washington, DC 20037  
 Tel: (202) 293-7060

Attorneys for Applicant/Registrant

Dated: January 28, 2015

/jsw/

By: \_\_\_\_\_  
 Jordan S. Weinstein  
 BARNES & THORNBURG, LLP  
 1717 Pennsylvania Avenue, N.W.  
 Suite 500  
 Washington, D.C. 20006  
 Tel: (202) 289-1313

Attorneys for Opposer/Petitioner

Dated: January 28, 2015

JSW/dlb

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing **MCCORMICK & COMPANY, INCORPORATED'S CONSENTED MOTION TO CONSOLIDATE PURSUANT TO FED.R.CIV.P. 42(a)** was served on Applicant's/Registrant's attorney the 28<sup>th</sup> day of January, 2015 by sending same via e-mail (per agreement of the parties) to:

**Kevin G. Smith, Esquire  
Gary D. Krugman, Esquire  
Sughrue Mion, PLLC  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202  
(202) 293-7060  
ksmith@sughrue.com  
gkrugman@sughrue.com  
mwhite@sughrue.com  
vmullineaux@sughrue.com  
tm@sughrue.com**

/jsw/  

---