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

Proceeding	92063063
Party	Defendant Jollibee Foods Corporation
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Date	10/21/2016
Attachments	Motion_to_consolidate.pdf(71614 bytes)

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

In the matter of Registration No. 4426087 registered on October 29, 2013

Bumble Bee Foods, LLC,)	
)	
Petitioner,)	Cancellation No. 92063063
)	
v.)	
)	
Jollibee Foods Corporation,)	
)	
Registrant.)	

In the matter of Registration No. 4693506 registered on February 24, 2015 and Registration No. 4892597 registered on January 26, 2016

Jollibee Foods Corporation,)	
)	
Petitioner,)	Cancellation No. 92064648
)	
v.)	
)	
Bumble Bee Foods, LLC,)	
)	
Registrant.)	

MOTION TO CONSOLIDATE

Jollibee Foods Corporation ("Jollibee"), moves to consolidate Cancellation No. 92063063 and Cancellation No. 92064648 pursuant to Federal Rule of Civil Procedure 42(a) and TBMP § 511. In support of its motion to consolidate, Jollibee states as follows.

1. In Cancellation No. 92063063, filed on January 7, 2016, Bumble Bee Foods, LLC ("Bumble Bee") is seeking to cancel Jollibee's Registration No. 4426087 on the basis of abandonment and likelihood of confusion. Despite the incontestable nature of Jollibee Registration No. 3152057, at various times during the course of those cancellation proceedings,

Bumble Bee has insisted that Jollibee surrender its incontestable trademark rights and cancel Registration No. 3152057.

2. In Cancellation No. 92064648, filed on October 18, 2016, Jollibee is seeking to cancel Bumble Bee's Registration No. 4693506 and Registration No. 4892597 on the basis of likelihood of confusion with Jollibee's Registration No. 3152057 and Registration No. 4426087.

3. The marks at issue in both cancellation actions are design marks.

4. In Cancellation No. 92063063, Bumble Bee is alleging that this Jollibee design mark



is likely to be confused with this Bumble Bee design mark

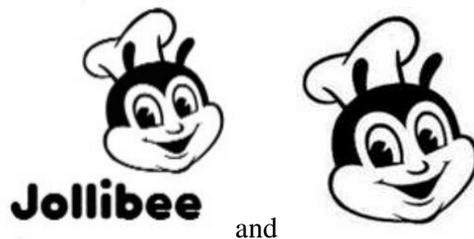


and the Bumble Bee design marks in Registration No. 2924759 and Registration No. 581074.

5. In Cancellation No. 92064648, Jollibee is alleging that this Bumble Bee design mark



in Registration No. 4693506 and Registration No. 4892597 is likely to be confused with these Jollibee design marks



6. The two proceedings involve the identical parties, Bumble Bee and Jollibee. The two proceedings involve design marks for images of bees. One of the Jollibee registrations Bumble Bee is seeking to cancel in Cancellation No. 92063063, Registration No. 4426087, is one of the registrations on which Jollibee is seeking to cancel the Bumble Bee registrations in Cancellation No. 92064648.

7. The classes of goods and services are similar: Bumble Bee seeking to cancel Jollibee's registration in Class 29 and Class 43 based on registrations in Class 29, and Jollibee is seeking to cancel Bumble Bee's registrations in Class 29 and Class 46 based on registrations in Class 29 and Class 43.

8. When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. Fed. R. Civ. P. 42(a); *Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382, 1384 n.3 (TTAB 1991).

9. In determining whether to consolidate proceedings, the Board weighs the savings in time, effort and expense that may be gained from consolidation against any prejudice or inconvenience that may be caused thereby. *World Hockey Ass'n v. Tudor Metal Prods. Corp.*, 185 USPQ 246, 248 (TTAB 1975); TBMP § 511.

10. As set forth above, common questions of law and fact are pending before the Board relating to these cancellation actions. There is no prejudice or inconvenience to either party. Consolidating proceedings will save time, effort, and expense for the Board and the parties.

11. In its discretion, the Board may order cases consolidated prior to joinder of issue or prior to exchange of Initial Disclosures. TBMP § 511. In this situation, the Board should exercise its discretion and consolidate the cases now. In the alternative, the Board should reserve ruling on this motion until such time as the parties are at issue in Cancellation No. 92064648 and exchange Initial Disclosures.

12. Jollibee also requests that the proceedings in Cancellation No. 92063063 be suspended until such time as the Board has the opportunity to consider and rule on this motion, and enter a consolidated discovery, testimony, and trial schedule.

Wherefore, Jollibee Foods Corporation respectfully requests that the Board consolidate the proceedings in Cancellation No. 92063063 and Cancellation No. 92064648, that the Board

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that the foregoing MOTION TO CONSOLIDATE was filed via ESTTA and served upon counsel and attorney of record for Registrant in Cancellation No. 92063063 via the United States Postal Service as first class mail, postage prepaid, with a courtesy copy by email, in an envelope addressed as follows:

Joseph A. Mandour
Ben T. Lila
Mandour & Associates APC
8605 Santa Monica Blvd., Suite 1500
Los Angeles, CA 90069
jmandour@mandourlaw.com
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The undersigned hereby also certifies that the foregoing MOTION TO CONSOLIDATE was also served upon Registrant in Cancellation No. 92064648 via the United States Postal Service as first class mail, postage prepaid, in an envelope addressed as follows:

Bumble Bee Foods LLC
280 10th Avenue
San Diego, CA 92101

this 21st day of October, 2016.

/John C. Filosa/
John C. Filosa