

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

EAD

Opposition No. 113,068  
Opposition No. 114,267  
Opposition No. 117,643

**MAILED**  
**APR 04 2001**  
**PAT. & T.M. OFFICE**

General Mills, Inc.

v.

Beverage Marketing USA, Inc.

#19

This case comes before the Board on the parties' stipulation, filed June 16, 2000<sup>1</sup>, to suspend proceedings in two of the three<sup>2</sup> above identified proceedings pending settlement negotiations between the parties.

As a preliminary matter, we turn to the issue of consolidation. The Board has reviewed the three above identified opposition proceedings and believes that in the interest of judicial economy Opposition Nos. 113,068, 114,267, and 117,643 should be consolidated. See Fed. R. Civ. P. 42(a).

Consolidation is discretionary with the Board, and may be ordered upon the Board's own initiative. *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and

<sup>1</sup> The delay in acting upon this matter is regretted.

<sup>2</sup> The third proceeding was already suspended.

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TBMP §511.<sup>3</sup> Here, the Board finds that the parties are the same, the applicant's marks TOTAL SPORT and TOTAL ENERGY are related, in each proceeding applicant has filed a counterclaim to cancel opposer's two registrations for the mark TOTAL, and thus the three proceedings involve common issues of law and fact. Accordingly, Opposition Nos. 113,068, 114,267, and 117,643 are consolidated, and may be presented on the same record and briefs.<sup>4</sup>

Because the parties are negotiating for possible settlement of this case, the stipulation to suspend proceedings is approved. See Trademark Rule 2.117(c).

Accordingly, consolidated proceedings herein are suspended until six months from the mailing date of this action, subject to the right of either party to request resumption at any time.

In the event that there is no word from either party concerning the progress of their negotiations within the next six months, the Board will issue an order resuming proceedings and resetting opposer's time to answer the counterclaim in

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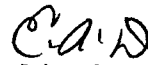
<sup>3</sup> The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is available in printed form from the Superintendent of Documents, in CD-ROM form from the PTO Office of Electronic Products, and on the World Wide Web at <http://www.uspto.gov/web/offices/dcom/ttab/tbmp/>.

<sup>4</sup> The Board file will be maintained in Opposition No. 113,068, as the "parent" case, but all papers filed herein must include the proceeding numbers of both cases in ascending order.

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Opposition Nos. 113,068 and 114,267<sup>5</sup>, and resetting trial dates, including the time for discovery.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.



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<sup>5</sup> Opposer filed an answer to the counterclaim on June 16, 2000 in Opposition No. 117,643.