

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

Baxley

Mailed: August 1, 2003

Opposition No. **91/150,278**

Opposition No. **91/154,632**

Wal-Mart Stores, Inc. ("Wal-Mart")

v.

Franklin Loufrani ("Loufrani")

Opposition No. **91/152,145**

Loufrani

v.

Wal-Mart

Andrew P. Baxley, Interlocutory Attorney:

OPPOSITION NO. 152,145: NOTICE OF DEFAULT

Wal-Mart's answer was due (as last reset) in Opposition No. 152,145 on February 7, 2003. Inasmuch as neither an answer in Opposition No. 152,145 nor a motion to extend time to answer in Opposition No. 152,145 of record in any of the above captioned proceeding files, notice of default is hereby entered against Wal-Mart under Fed. R. Civ. P. 55(a) in Opposition No. 152,145.

Wal-Mart is allowed until **thirty days** from the mailing date of this order to show cause why judgment by default

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should not be entered against it in Opposition No. 152,145 in accordance with Fed. R. Civ. P. 55(b).

CONSOLIDATION ORDERED

Loufrani's motion (filed March 24, 2003) to consolidate the above-referenced proceedings is hereby granted.¹ The Board hereby orders the consolidation of the above-referenced proceedings inasmuch as the parties are the same and the three proceedings involve common questions of law or fact.² In view thereof, Opposition Nos. 150,278, 152,145, and 154,632 are hereby consolidated.³

The consolidated cases may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989) and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1423 (TTAB 1993).

The Board filed will be maintained in Opposition No. 150,278 as the "parent" case. As a general rule, from this point on only a single copy of any paper or motion should be filed herein; but that copy should bear all three proceeding

¹ Although Loufrani refers to a motion to suspend that Wal-Mart filed in Opposition No. 154,632, no motion to suspend is of record in that proceeding.

² When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases. 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).

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numbers in its caption. Exceptions to the general rule involve stipulated extensions of the discovery and trial dates, see Trademark Rule 2.121(d), and briefs on the case, see Trademark Rule 2.128.

Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases shall take into account any differences in the issues raised by the respective pleading; a copy of the decision shall be placed in each proceeding file.

PROCEEDINGS SUSPENDED

The newly consolidated proceedings are **suspended** pending resolution of the notice of default in Opposition No. 152,145. Upon such resolution, the Board will issue an order resuming proceedings and resetting trial dates, including a brief time for discovery.⁴

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

³ It is noted that the Board had already consolidated Opposition Nos. 150,278 and 152,145 in a January 8, 2003 order.

⁴ It is noted that discovery had not yet closed in Opposition No. 154,632, the most junior of the consolidated proceedings, and that, when resetting the discovery and trial schedule in an order consolidating proceedings, the Board generally adopts the schedule of the most junior of the consolidated proceedings.