

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: February 18, 2006

Opposition No. **91167162**

Bepco, Inc.

v.

Bendix Commercial Vehicle  
Systems LLC

Linda Skoro, Interlocutory Attorney

This case now comes up on opposer's motion to consolidate, filed in Opposition No. 91165729 on December 22, 2005. In its motion, opposer requests consolidation of five other opposition proceedings, Opp. Nos. 91167194; 91167318; 91167515; 91167223; and 91167162, with this proceeding. Applicant does not object to consolidating the five-identified opposition proceedings with each other, but does object to their consolidation into this proceeding.

A review of the pleadings in the above-identified opposition proceedings indicates that the parties are the same and the proceedings involve substantially identical questions of fact and law. Applicant's objection to including this proceeding with the other five is that the marks are different. While all of the opposition proceedings involve alphanumeric designations for certain types or categories of

vehicle parts or equipment, the five proceedings are for a series of "AD" marks and the instant proceeding is for a "MV" mark. It is applicant's position that the facts and evidence involved in the "MV" proceeding are significantly different from the "AD" proceedings. Opposer disagrees pointing out that there are common questions of law and fact among all the proceedings, namely whether the designations are generic, and the evidence for all of the marks will generally come from the same sources, and there will not be significant confusion or prejudice.

Since the marks sought to be registered by applicant are all being challenged by opposer as generic designations, it is believed that these proceedings may be presented on the same record without appreciable inconvenience or confusion. Moreover, it is believed that the consolidation would be equally advantageous to both parties in the avoidance of the duplication of effort, loss of time, and the extra expense involved in conducting the proceedings individually. See Rule 42(a) of the Federal Rules of Civil Procedure.

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). 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 proceeding numbers in its caption.

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 pleadings and a copy of the decision shall be placed in each proceeding file.

Accordingly, opposer's motion is hereby granted as well taken. The parent case is the first filed, namely, the instant proceeding, Opposition No. 911165729.

Trial dates remain as set in the "child" or youngest of these proceedings, namely, Opposition No. 91167515. They are set out below for ease of reference.

Discovery period to close: **5/31/2006**

30-day testimony period for party **8/29/2006**  
in position of plaintiff  
to close:

30-day testimony period for party **10/28/2006**  
in position of  
defendant to close:

15-day rebuttal testimony period **12/12/2006**  
to close:

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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