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

Proceeding	91174888
Party	Plaintiff ISI Brands, Inc. ISI Brands, Inc. 3133 Orchard Vista Drive, S.E. Grand Rapids, MI 49546 UNITED STATES
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Submission	Motion to Consolidate
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Date	01/31/2007
Attachments	Joint Motion to Consolidate and to Reset Dates.pdf (4 pages)(234621 bytes)

**UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of

*Application Serial No. 78/438,907
of D'Andrea Brothers, LLC
for the mark SOLDIER FUEL
Filed on 06/21/2004
Published for Opposition on 08/23/2005*

*Application Serial Nos. 78/819,203 and 78/977,613
of D'Andrea Brothers, LLC
for the mark MARINE FUEL
Filed on 02/20, 2006
Published for Opposition on 12/19/2006 and 12/5/2006*

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ISI BRANDS INC.	:	Opposition Nos. 91168123 and
	:	91174888
Opposer,	:	
	:	
v.	:	
	:	
D'ANDREA BROTHERS, LLC,	:	
	:	
Applicant.	:	

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JOINT MOTION TO CONSOLIDATE AND TO RESET DATES

Pursuant to T.B.M.P. § 511 and Rule 42(a) of the Federal Rules of Civil Procedure, Opposer ISI Brands Inc. ("Opposer") and Applicant D'Andrea Brothers LLC ("Applicant") (collectively, Opposer and Applicant shall be referred to as "the Parties") hereby jointly move to consolidate Opposition Nos. 91168123 and 91174888 and to reset dates as outlined below.

I. STATEMENT OF THE FACTS

On or about December 20, 2005, Opposer filed Notice of Opposition No. 91168123 (“the ‘123 Opposition”) against Applicant’s Application Ser. No. 78/438,907 for the mark SOLDIER FUEL for:

ready-to-eat cereal-derived food bars, cereal-derived energy bars, cereal-derived nutrition bars, candy bars, and snacks, namely, cereal based snack food in Class 30 and sports drinks; energy drinks; fruit juices and fruit drinks, vegetable juices and vegetable drinks; syrups, powders, concentrates and effervescent tablets for making drinks and beverages; mineral waters, aerated waters, carbonated waters, flavored waters and other non-alcoholic beverages, namely, punches, soft drinks, smoothies and lemonades in Class 32.

The Parties have sought extensions of discovery and trial dates such that discovery in this matter is currently scheduled to close May 7, 2007.

On or about December 29, 2006, Opposer filed Notice of Opposition No. 91174888 (“the ‘888 Opposition”) against Applicant’s Application Serial No. 78/977,613 for the mark MARINE FUEL for ready-to-eat energy bars, nutrition bars, candy bars, and snacks, namely cereal based snack food in Class 30 and Serial No. 78/819,203 for the mark MARINE FUEL for non-alcoholic beverages, namely, fruit drinks and fruit juices, sports drinks, energy drinks, syrups and other preparations for making beverages, namely, sports drinks and energy drinks in Class 32. Discovery is currently set to close July 17, 2007.

II. LEGAL ANALYSIS

The parties are identical in the ‘123 and ‘888 Oppositions. Opposer’s grounds for the Oppositions are very similar, namely that registration of Applicant’s marks is likely to cause confusion with Opposer’s family of FUEL marks. The Oppositions thus involve

common questions of law and fact, and therefore, in order to facilitate an efficient use of the Board's and the parties' time and resources, the Oppositions should be consolidated.

See T.B.M.P. § 511.

III. REQUEST TO RESET DATES

The Parties further request that, assuming the Oppositions are consolidated, the consolidated proceeding move forward with the following schedule:

Discovery Closes: 5/15/2007

Close of Plaintiff's Testimony: 8/15/2007

Close of Defendant's Testimony: 10/15/2007

Close of Plaintiff's Rebuttal Testimonies: 12/1/2007


IV. CONCLUSION

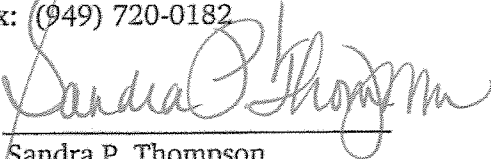
For the reasons above, the Parties respectfully request that the Motion To Consolidate and To Reset Dates be granted.

Respectfully submitted,

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By 
Chester Rothstein
Kenneth M. Bernstein
Holly Pekowsky

By 
Sandra P. Thompson

Dated: January 30, 2007
New York, New York

Dated: January 29, 2007
Irvine, CA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is one of the attorneys for Opposer ISI Brands in the captioned action, and that on the date which appears below she served a true and accurate copy of the foregoing JOINT MOTION TO CONSOLIDATE AND TO RESET DATES upon Applicant, by causing a copy thereof to be delivered to Applicant's attorney, by regular mail, to the following address:

Sandra P. Thompson, PhD., Esq.
Buchalter Nember
18400 Von Karman Ave. Suite 800
Irvine, CA 92612



Holly Pekowsky

Dated: January 30, 2007
New York, New York