

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

Baxley

Mailed: November 1, 2007

Opposition No. 91161590
Opposition No. 91161591
Opposition No. 91165666
Opposition No. 91166264
Opposition No. 91167782
Opposition No. 91168060
Opposition No. 91171858
Opposition No. 91178333
Opposition No. 91178675

Spy Optic, Inc.

v.

The House On F Street, LLC

(as consolidated)

Andrew P. Baxley, Interlocutory Attorney:

The Board notes opposer's renewed consented motion (filed October 29, 2007) to extend discovery and testimony periods in Opposition No. 91165666 for settlement negotiations. That motion is rendered moot by the following.

The Board, by its own initiative, orders the consolidation of the above-referenced proceedings inasmuch as the parties are the same and the proceedings involve common questions of law or fact.¹ See TBMP Section 511 (2d

¹ When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation

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ed. rev. 2004). 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 file will be maintained in Opposition No. 91161590 as the "parent" case. As a general rule, from this point onward, the parties should file only a single copy of any submission herein; but that copy should include all of consolidated proceeding numbers in the caption thereof.

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.

The Board hereby suspends these newly consolidated proceedings in accordance with the October 16, 2007 order in

of the cases. See Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

The Board notes that the parties were told in the Board notices instituting these proceedings that if they are "parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings." If the parties become involved in any further Board proceedings during the pendency of these consolidated proceedings, they should so notify.

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Opposition No. 91161591.² Based thereon, proceedings herein are suspended until April 13, 2008, subject to either party's right to request resumption at any time. If there is no word from either party concerning the progress of their negotiations by April 13, 2008, proceedings herein will resume automatically without further action by the Board on April 14, 2008. The parties will be allowed until May 14, 2008 to serve responses to any outstanding written discovery requests. Discovery and testimony periods will be reset as follows.

DISCOVERY PERIOD TO CLOSE: July 13, 2008

Plaintiff's 30-day testimony period to close: **October 11, 2008**

Defendant's 30-day testimony period to close: **December 10, 2008**

Plaintiff's 15-day rebuttal testimony period to close: **January 24, 2009**

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.

² The discovery period in that proceeding has the latest closing date of the proceedings at issue.

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