

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

BDB

Mailed: May 13, 2008

Opposition No. 91178823

Opposition No. 91180399

Aquatrols Corporation of  
America, Inc.

v.

Monsanto Technology LLC

(as consolidated)

**Brian D. Brown, Interlocutory Attorney**

The parties' consented motion (filed April 21, 2008) to consolidate proceedings is hereby granted. See Trademark Rule 2.127(a). In view thereof, please note the following.

**CONSOLIDATION:**

When cases involving common questions of law or facts are pending before the Board, the Board may, upon its own initiative or upon motion, order the consolidation of the cases. See Fed. R. Civ. P. 42(a) and TBMP § 511 and authorities cited therein (2d ed. rev. 2004).

The parties in both cases are the same, our review of the pleadings in the two proceedings indicates that the cases involve common questions of law and fact, and the Board's ruling in one of the opposition proceedings will

have a bearing on the other one. As a result, these proceedings may be presented on the same record and briefs without appreciable inconvenience or confusion. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 12 USPQ2d 1618 (TTAB 1989).

Moreover, consolidation would be equally advantageous to the parties by avoiding the extra expense involved in conducting the proceedings individually and the duplication of effort. Since consolidation would contribute to the orderly and timely administration of two pending cases, the Board finds consolidation is appropriate.

Therefore, Opposition No. 91173386 and Opposition No. 91180399 are hereby consolidated. Consequently, the parties' future submissions should be captioned in the above manner set out in this order. The Board file will be maintained in Opposition No. 91178823 as the "parent" case. As a general rule, only a single copy of any paper or motion should be filed in the parent case file.

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. The parties are further advised that they are to inform the Board of any other proceedings which involve the same parties and the same or related issues.

In view of the parties' request as well as the Board's policy to follow the trial schedule set out in the later filed proceeding, discovery and trial dates are reset in accordance with the stipulated motion to consolidate.

**NEWS FROM THE TTAB:**

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:  
<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>  
[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242 FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:  
<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stndagmnt.htm>