

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

Baxley

Mailed: November 26, 2008

Opposition No. **91183677**

Opposition No. **91183727**

Foodarama LLC (substituted for  
Foodarama Inc. as party  
plaintiff)

v.

MIP Metro Group Intellectual  
Property GmbH & Co. KG

Cancellation No. **92046932**

MIP Metro Group Intellectual  
Property GmbH & Co. KG

v.

Foodarama LLC (substituted for  
Foodarama Inc. as party  
defendant)

**Andrew P. Baxley, Interlocutory Attorney:**

On November 24, 2008, Foodarama LLC ("LLC") filed a combined motion to: (1) be substituted as party plaintiff in the above-captioned opposition proceedings and as party defendant in the above-captioned cancellation proceeding; and (2) consolidate the above-captioned proceedings. MIP Metro Group Intellectual Property GmbH & Co. KG ("MIP") consented to the motion to consolidate. The Board will consider both motions at this time.

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Turning first to the motion to substitute, that motion is granted as well-taken. A document reflecting the assignment of Registration No. 2791341, a pleaded registration in the above-captioned oppositions and the involved registration in the above-captioned cancellation, to LLC is recorded with the USPTO's Assignment Branch at Reel 3884, Frame 0292 and was included as an exhibit to LLC's motion. Because the assignment occurred prior to the commencement of this proceeding, LLC is substituted as party plaintiff in the oppositions and as party defendant in the cancellation. See TBMP Section 512.01 (2d ed. rev. 2004).

The motion to consolidate is also granted.<sup>1</sup> 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. 91183677 as the "parent" case. As a general rule, from this point onward, only a single copy of any submission should be filed herein; that copy, however, should include all of the consolidated proceeding numbers in its caption.

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<sup>1</sup> 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); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991); TBMP Section 511.

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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.

Inasmuch as Cancellation No. 92046932 was commenced prior to November 1, 2007, disclosures deadlines and obligations apply to the above-captioned oppositions only. See Trademark Rule 2.120(a). Dates herein are reset as follows.

Initial disclosures due:	November 30, 2008
Expert disclosures due:	March 30, 2009
Discovery closes:	April 29, 2009
LLC's pretrial disclosures due:	June 13, 2009
LLC's 30-day testimony period as plaintiff in the opposition to close:	July 28, 2009
MIP's pretrial disclosures due:	August 12, 2009
MIP's 30-day testimony period as defendant in the opposition and as plaintiff in the cancellation to close:	September 26, 2009
LLC's pretrial disclosures for rebuttal in the opposition and as defendant in the cancellation due:	October 11, 2009
LLC's 30-day testimony period as defendant in the cancellation and for rebuttal as plaintiff in the opposition to close:	November 25, 2009
MIP's rebuttal disclosures as plaintiff in the cancellation due:	December 10, 2009
MIP's 15-day rebutal testimony period as plaintiff in the cancellation to close:	January 9, 2010

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Brief for LLC as plaintiff in the opposition due: March 10, 2010

Brief for MIP as defendant in the opposition and as plaintiff in the cancellation due: April 9, 2010

Brief for LLC as defendant in the cancellation and reply brief, if any, as plaintiff in the opposition due: May 9, 2010

Reply brief, if any, for MIP as plaintiff in the cancellation due: May 24, 2010

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. An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129. If either of the parties or their attorneys should have a change of address, the Board should be so informed promptly.