

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

Brown

Mailed: July 10, 2008

Opposition No. 91182104

Opposition No. 91184379

OPIN Systems, Inc.

v.

Cargill, Incorporated

(as consolidated)

Brian D. Brown, Interlocutory Attorney:

The parties' consented motion, filed June 30, 2008, is hereby granted. With proceedings consolidated herein and the time to answer extended, please note the following.

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 opposition proceeding will have a direct bearing on the other opposition proceeding. 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. 91182104 and Opposition No. 91184379 are hereby consolidated. Consequently, the parties' future submissions should be captioned as in this order. The Board file will be maintained in Opposition No. 91182104 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.

Lastly, consistent with the Board's policy regarding consolidation and the parties' consented motions to extend

the testimony periods in both cases, the Board hereby resets trial dates for the consolidated proceeding as follows and adopts the schedule set forth in the motion to extend filed in the recently instituted of the two cases and granted by the Board:

Time to Answer	9/8/2008
Deadline for Discovery Conference	10/8/2008
Discovery Opens	10/8/2008
Initial Disclosures Due	11/7/2008
Expert Disclosures Due	3/7/2009
Discovery Closes	4/6/2009
Plaintiff's Pretrial Disclosures	5/21/2009
Plaintiff's 30-day Trial Period Ends	7/5/2009
Defendant's Pretrial Disclosures	7/20/2009
Defendant's 30-day Trial Period Ends	9/3/2009
Plaintiff's Rebuttal Disclosures	9/18/2009
Plaintiff's 15-day Rebuttal Period Ends	10/18/2009

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. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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

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>