

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

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Mailed: December 31, 2008

**Opposition No. 91186397
(parent case)**

Jarrow Formulas, Inc.

v.

Ford Albritton, IV

Opposition No. 91186980

Ford Albritton, IV

v.

Jarrow Formulas, Inc.

Frances S. Wolfson, Interlocutory Attorney:

Opposer's consented motion (filed December 1, 2008) to consolidate the above-captioned proceedings and reset disclosure, discovery and trial dates is hereby granted.¹

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).

¹ 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).

The Board files will be maintained in Opposition No. 91186397 as the "parent" case. As a general rule, from this point on only a single copy of any paper or motion should be filed herein; but that copy should bear all proceeding numbers in its caption in ascending order.

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; a copy of the decision shall be placed in each proceeding file.

In keeping with Board practice, and as requested by opposer, the Board hereby adopts the discovery and trial schedule of Opposition No. 91186980 for these newly consolidated proceedings. Trial dates are reset as follows.

Initial Disclosures Due	1/22/2009
Expert Disclosures Due	5/22/2009
Discovery Closes	6/21/2009
Plaintiff's Pretrial Disclosures	8/5/2009
Plaintiff's 30-day Trial Period Ends	9/19/2009
Defendant's Pretrial Disclosures	10/4/2009
Defendant's 30-day Trial Period Ends	11/18/2009
Plaintiff's Rebuttal Disclosures	12/3/2009
Plaintiff's 15-day Rebuttal Period Ends	1/2/2010

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.

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>