

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

Lg/DUNN

Mailed: January 23, 2009

Opposition No. 91167509  
Opposition No. 91167533  
Opposition No. 91167571  
Opposition No. 91174378  
Opposition No. 91187450\*  
Opposition No. 91187475\*  
Opposition No. 91187476\*  
Opposition No. 91187481\*  
Opposition No. 91187484\*  
Cancellation No. 92050197\*

WAGEWORKS, INC.

v.

TAKE CARE HEALTH SYSTEMS,  
LLC

**Elizabeth A. Dunn, Attorney (571-272-4267):**

On December 22, 2008, applicant filed a motion to add the six proceedings shown with an asterisk (\*) to the previously consolidated case. While the motion was not filed with opposer's consent, opposer did not file an opposition to the motion. Each opposed mark in the consolidated case includes the term TAKE CARE, and the

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proposed additions to the consolidated proceeding also involve marks that include the term TAKE CARE.

The Board notes that an answer has been filed in each proceeding.<sup>1</sup>

Accordingly, applicant's motion to consolidate is granted, and all of the above listed proceedings are hereby consolidated and may be presented on the same record and briefs. See Fed. R. Civ. P. 42(a); and Trademark Trial and Appeal Board Manual of Procedure (TBMP) §511 (2d ed. rev. 2004).

Opposition No. 91167509 is the "parent" case and papers should be filed by the parties only in the file of the parent case. Papers should bear the number of each of the consolidated cases as shown above (except the asterisk may be deleted). Consolidated cases do not lose their separate identity because of consolidation. Each proceeding retains its separate character and requires entry of a separate judgment. See 9A Wright & Miller, Fed. Prac. & Proc. Civ.3d § 2382 (updates through 2008).

Pursuant to the Board's September 11, 2008 order granting the parties' consented motion, proceedings herein

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<sup>1</sup> On October 17, 2007, opposer filed a motion for summary judgment on the ground of fraud in Opposition No. 91174378. Upon the resumption of proceedings, applicant's time to file a response to the motion will be reset.

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remain suspended until March 9, 2009, when they will resume on the schedule set forth in the Board's September 11, 2008 order.

**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>