

ESTTA Tracking number: **ESTTA365717**

Filing date: **08/30/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91195203
Party	Plaintiff The United States Playing Card Company
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Date	08/30/2010
Attachments	15292506_1.pdf (4 pages)(12924 bytes)

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

UNITED STATES PLAYING CARD COMPANY,)	
)	
Opposer,)	Opposition No. 91195203
)	
v.)	
)	
ANGEL PLAYING CARDS CO., LTD.,)	
)	
Applicant.)	

REPLY IN SUPPORT OF MOTION TO CONSOLIDATE PROCEEDINGS

United States Playing Card Company (“USPC”), submits this reply in support of its Motion to Consolidate Opposition No. 91195203 with Opposition No. 91190319. Because both oppositions are in the pre-trial discovery stage and because they involve common questions of law and fact with virtually identical pleadings, consolidation is appropriate.

I. ARGUMENT

A. The Proceedings Are Both Still in the Pre-Trial Stage

Because both the ’319 Opposition and the instant Opposition are in the pre-trial discovery stage, consolidation would be appropriate. Applicant Angel Playing Cards Co., Ltd. (“Angel”) mischaracterizes the status of the ’319 Opposition as “fairly advanced.” (Applicant’s Resp. at 2.) This statement is entirely inaccurate. Both the ’319 Opposition and the instant Opposition are still in the pre-trial discovery stage, with the parties only recently exchanging responses to written discovery requests in the ’319 Opposition. Furthermore, upon consolidation, the Board

1 will reset the trial dates, as it did when consolidating the '319 Opposition to provide "the parties
2 the benefit of the longest time." (TTAB Order at 2, Mar. 24, 2010); *see also Trademark Trial &*
3 *Appeal Board Manual of Procedure* § 511, [hereinafter *TBMP*] ("Upon consolidation, the Board
4 will reset trial dates for the consolidated proceeding, usually by adopting the trial dates as set in
5 the most recently instituted of the cases being consolidated."). Because the oppositions are at
6 similar stages and because the scheduling dates can be adjusted, consolidation is appropriate.

7 **B. The Oppositions Involve Common Questions of Law and Fact**

8 Fed. R. Civ. P. 42(a), as made applicable by Trademark Rule 2.116(a), provides that the
9 Board may consolidate proceedings pending before it that involve common questions of law and
10 fact. *S. Industries, Inc. v. Lamb-Weston, Inc.*, 45 U.S.P.Q.2d 1293, 1297 (T.T.A.B. 1997).
11 Contrary to Angel's beliefs, consolidation will not deprive Applicant of a fair evaluation of each
12 individual mark because "[c]onsolidated cases do not lose their separate identity....Each
13 proceeding retains its separate character and requires entry of a separate judgment." *TBMP* at
14 § 511.

15 Furthermore, in the case cited by Applicant to deny consolidation, the applicant and
16 opposer's marks applied to different classes of goods, and though the Board denied
17 consolidation, it did consolidate the record and render one decision applicable to all oppositions.
18 *Envirotech Corp. v. Solaron Corp.*, 211 U.S.P.Q. 724, 726-27 (T.T.A.B. 1981). Therefore,
19 because the proceedings here involve common questions of law and fact and because
20 consolidation does not deprive Applicant of a fair determination of the issues relating to each
21 mark, consolidation should be granted.

22 **II. CONCLUSION**

23 USPC therefore respectfully requests that the Board consolidate this proceeding with the
24 five proceedings that previously were consolidated under parent proceeding Opposition
25 No. 91190319. USPC also requests that, after consolidation, the Board reset the schedule for all
26 these proceedings to the schedule set forth in Cancellation No. 92052531, the last filed of the
27

1 eight proceedings, with the case schedule revised to allow litigation of the cancellation
2 counterclaims.

3 RESPECTFULLY SUBMITTED this 30th day of August, 2010.

4 Davis Wright Tremaine LLP
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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of August, 2010, a true and correct copy of Reply in Support of Motion to Consolidate Proceedings in Opposition No. 91195203 was duly served upon the Applicant by mailing a copy thereof via the U.S. Postal Service, first-class mail to:

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CERTIFICATE OF FILING

I hereby certify that on August 30, 2010, I filed this Reply in Support of Motion to Consolidate Proceedings via the ESTTA Filing System of the U.S. Patent and Trademark Office.

DATED this 30th day of August, 2010.

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