

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

EJW

Mailed: September 3, 2010

Opposition No. 91179064

Opposition No. 91182358

Opposition No. 91183644

Opposition No. 91186026

Opposition No. 91187261

Opposition No. 91188860

Opposition No. 91191230

Opposition No. 91192691

Opposition No. 91194551

Opposition No. 91196019

Cancellation No. 92046853

Stephen Slesinger, Inc.

v.

Disney Enterprises, Inc.

ELIZABETH J. WINTER, INTERLOCUTORY ATTORNEY:

Consolidation

The Board notes the parties' stipulated motion (filed August 24, 2010) to consolidate Opposition No. 91196019 with the above-referenced proceedings, which were consolidated by order of the Board on February 28, 2010.¹

A review of Opposition No. 91196019 reveals that it involves the same parties and common questions of law and fact as those in the above-referenced proceedings and, therefore, that consolidation is appropriate. See Fed. R.

¹ Opposition No. 91194551 was consolidated with these proceedings on May 19, 2010.

Opposition Nos. 91179064, 91182358, 91183644, 91186026, 91187261, 91188860, 91191230, 91192691, 91194551 and 91196019; and Cancellation No. 92046853

Civ. P. 42(a); TBMP § 511 (2d ed. rev. 2004). Accordingly,

Opposition No. 91196019 is hereby consolidated with the above-identified opposition and cancellation proceedings.

See Id.

Motion to Dismiss

The Board notes that applicant/respondent filed in the newly-added opposition on August 24, 2010, a motion to dismiss in lieu of an answer²; that applicant/respondent advised the Board therein that opposer/petitioner's appeal of the decision in the civil action, which occasioned the suspension of these proceedings, has been dismissed; and that applicant/respondent asserts that the Board should now consider applicant/respondent's motion to dismiss these consolidated proceedings. It is also noted that applicant/respondent filed on July 16, 2010 in the parent case herein a second "notice of final determination" of the civil action, including appeal, which explained, *inter alia*, that the parties had filed a stipulation to voluntarily dismiss opposer/respondent's appeal of the decision in the civil action.

In view of the foregoing, opposer/petitioner is allowed until TEN DAYS from the mailing date of this order, that is,

² Should these consolidated proceedings survive the motion to dismiss, applicant will be expected to file an answer in all unanswered proceedings upon resumption.

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until September 13, 2010, to show cause why the Board should not now consider the fully-briefed motion to dismiss filed in Opposition No. 91192691 and the fully-briefed requests to dismiss³ filed in Opposition Nos. 91179064, 91182358, 91183644, 91186026, 91187261, 91188860, and 91191230 and in Cancellation No. 92046853, failing which the Board will consider all motions and requests to dismiss once applicant/respondent's new motion to dismiss (filed in Opposition No. 91196019) is fully briefed (see *infra*). Opposer/petitioner's response to this show cause order, if any, must be filed in the parent case, *Opposition No. 91179064*.

Alternatively, pursuant to Trademark Rules 2.119(c) and 2.127(a), opposer/petitioner is allowed until TEN DAYS from the mailing date of this order, that is, until September 13, 2010, to file a responsive brief to applicant's motion to dismiss in Opposition No. 91196019. Applicant/respondent may file its reply brief thereto, if any, also in accordance with Trademark Rule 2.127(a).

In view of the foregoing, consideration of applicant/respondent's motions and requests to dismiss filed in these consolidated proceedings remains deferred.

³ The requests for the Board to dismiss filed in these proceedings were entitled "Notice of Final Determination in Civil Action." A motion to dismiss has not been filed in Opposition No. 91194551.

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Additionally, because the parent case herein, Opposition No. 91179064, is presently suspended for final determination of a civil action, Opposition No. 91196019 is also SUSPENDED for that reason.

Should opposer/petitioner not dispute that the civil action which occasioned the suspension of these proceedings has been finally resolved and, therefore, that the referenced motions and requests to dismiss may be decided by Board (once the second motion to dismiss is fully briefed), these consolidated proceedings shall remain suspended pending the Board's consideration of said motions and requests to dismiss. Any paper filed during the pendency of these motions and requests to dismiss, which is not relevant thereto, will be given no consideration. See Trademark Rule 2.127(d).

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