

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

Mailed: November 3, 2011

Opposition No. 91198499

Opposition No. 91198503

Fresh, Inc.

v.

CBS Radio, Inc.

**Cheryl Butler, Attorney, Trademark Trial and Appeal Board:**

The Board has reviewed each of the above-identified oppositions which involve the same parties and at least some of the same questions of law and fact. Answers have not yet been filed. On October 18, 2011, applicant filed consented motions to reopen its time to answer and to extend remaining dates because the parties are in settlement. Such motion was granted in Opposition No. 91198503 on October 27, 2011. The motion filed in Opposition No. 91198499 is also granted.

When the parties are involved in cases concerning common questions of law or fact pending before the Board, consolidation of such cases may be appropriate. Proceedings may be consolidated upon the Board's own initiative. See Fed. R. Civ. P. 42(a); and TBMP § 511 (3d ed. 2011). The Board, in its discretion, may order cases consolidated prior to joinder of issue (*i.e.*, before an answer has been filed in each case).

The Board finds it appropriate to consolidate the above-identified proceedings for purposes of judicial economy. Accordingly, Opposition Nos. 91198499 and 91198503 are hereby consolidated and may be presented on the same records and briefs (except that the answers for each proceeding are to be filed in the corresponding proceeding.) The record will be maintained in Opposition No. **91198499** as the "parent" case, but all papers filed in these cases should include both proceeding numbers in ascending order.

The agreed-upon, operative dates for this consolidated proceeding are copied below:<sup>1</sup>

**Time to Answer : 11/14/2011**  
**Deadline for Discovery Conference : 12/14/2011**  
**Discovery Opens : 12/14/2011**  
**Initial Disclosures Due : 01/13/2012**  
**Expert Disclosure Due : 05/12/2012**  
**Discovery Closes : 06/11/2012**  
**Plaintiff's Pretrial Disclosures : 07/26/2012**  
**Plaintiff's 30-day Trial Period Ends : 09/09/2012**  
**Defendant's Pretrial Disclosures : 09/24/2012**  
**Defendant's 30-day Trial Period Ends : 11/08/2012**  
**Plaintiff's Rebuttal Disclosures : 11/23/2012**  
**Plaintiff's 15-day Rebuttal Period Ends : 12/23/2012**

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.

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<sup>1</sup> The Board repeats that the answer to each opposition is to be filed separately in each opposition proceeding. Any other papers are to be filed only in the parent case.

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.

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