

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

Mailed: April 13, 2011

Opposition No. 91192865
Opposition No. 91196671
Opposition No. 91197279
Opposition No. 91197407
Opposition No. 91198701
Opposition No. 91198703
Opposition No. 91198704

BBY Solutions, Inc.

v.

Sears Brands, LLC

**George C. Pologeorgis,
Interlocutory Attorney:**

On March 14, 2011, applicant filed a consented motion to consolidate Opposition Nos. 91198701, 91198703 and 91198704 with already-consolidated proceedings 91192865, 91196671, 91197279 and 91197407 and to extend trial dates accordingly. In support of its motion, applicant states that in order to streamline the further consolidation of the above-identified proceedings, the parties have agreed to the following: (1) to waive the required initial disclosures with respect to Opposition Nos. 91198701, 91198703, and 91198704, (2) to conduct the required discovery conferences for Opposition Nos. 91198701, 91198703, and 91198704; (3) that the current discovery requests and responses served in the already

Opposition No. 91192865
Opposition No. 91196671
Opposition No. 91197279
Opposition No. 91197407
Opposition No. 91198701
Opposition No. 91198703
Opposition No. 91198704

consolidated proceedings shall apply with respect to the subject matter of and mark(s) at issue in Opposition Nos. 91198701, 91198703, and 91198704; and (4) that the protective order currently in place with the already consolidated proceedings shall apply to all proceedings.

Applicant's consented motion to consolidate is granted to the extent noted below. See Fed. R. Civ. P. 42(a); and Trademark Trial and Appeal Board Manual of Procedure (TBMP) § 511 (2d ed. rev. 2004).

Opposition Nos. 91198701, 91198703, and 91198704 are hereby consolidated with already-consolidated proceedings 91192865, 91196671, 91197279 and 91197407 and may be presented on the same record and briefs. Papers should bear the number of each of the consolidated cases, although Opposition No. 91192865 will remain as the "parent" case, and most of the papers filed by the parties, or issued by the Board, will be placed only in the file of the parent case. The parties need not file a copy for each consolidated case; a single copy, bearing the number of each consolidated case, normally is sufficient.

Consolidated cases do not lose their separate identity because of consolidation. Each proceeding retains its

Opposition No. 91192865
Opposition No. 91196671
Opposition No. 91197279
Opposition No. 91197407
Opposition No. 91198701
Opposition No. 91198703
Opposition No. 91198704

separate character and requires entry of a separate judgment. See Wright & Miller, Federal Practice and Procedure: Civil §2382 (1971).

Further, the Board grants the stipulation to waive initial disclosures in all the consolidated proceedings since it appears that the parties are pursuing traditional discovery devices. Moreover, the Board grants the parties' stipulation that the discovery requests and responses served in Opposition No. 91192865 shall apply to all the consolidated cases and that the Board's standard protective order is applicable to all the consolidated proceedings.

The Board notes that applicant filed its answers in Opposition Nos. 91198701, 91198703, and 91198704 on April 4, 2011.¹

Accordingly, the discovery conference deadline for Opposition Nos. 91198701, 91198703, and 91198704 will be May 4, 2011.

The already-consolidated proceedings, i.e., Opposition Nos. 91192865, 91196671, 91197279 and 91197407, will remain suspended until the parties conduct their required discovery

¹ The Board notes that applicant has already filed its answers in Opposition Nos. 91192865, 91196671, 91197279, and 91197407 and that the parties have already conducted their required discovery conference with respect to the aforementioned proceedings.

Opposition No. 91192865
Opposition No. 91196671
Opposition No. 91197279
Opposition No. 91197407
Opposition No. 91198701
Opposition No. 91198703
Opposition No. 91198704

conferences with regard to Opposition Nos. 91198701, 91198703, and 91198704. Once the discovery conference for Opposition Nos. 91198701, 91198703, and 91198704 is held between the parties, all the proceedings consolidated herein will move forward on the same schedule to the extent that discovery will be deemed open for all the consolidated proceedings consolidated and the trial dates for all the consolidated proceedings will be reset as follows:

Expert Disclosures Due	7/18/2011
Discovery Closes	8/17/2011
Plaintiff's Pretrial Disclosures	10/1/2011
Plaintiff's 30-day Trial Period Ends	11/15/2011
Defendant's Pretrial Disclosures	11/30/2011
Defendant's 30-day Trial Period Ends	1/14/2012
Plaintiff's Rebuttal Disclosures	1/29/2012
Plaintiff's 15-day Rebuttal Period Ends	2/28/2012

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.

Briefs shall be filed in accordance with Trademark

Opposition No. 91192865
Opposition No. 91196671
Opposition No. 91197279
Opposition No. 91197407
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Opposition No. 91198703
Opposition No. 91198704

Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.