

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

MBA

Mailed: November 22, 2011

Opposition No. 91200444

Officeware Corporation

v.

Dropbox, Inc.

**Michael B. Adlin, Interlocutory Attorney:**

On September 23, 2011, opposer filed a motion to suspend this proceeding pending final resolution of a pending civil action between the parties herein (Officeware Corporation d/b/a Filesanywhere.com v. Dropbox, Inc., Case No. 3:11-cv-01448-L, pending in the U.S. District Court for the Northern District of Texas) (the "Federal Case"). On the same day, applicant filed a motion to consolidate this proceeding with Opposition Nos. 91200450 and 91201367. Applicant failed to respond to the merits of opposer's motion for suspension, but requests that its motion to consolidate be taken up first. Opposer failed to respond to applicant's motion to consolidate.

Turning first to applicant's motion to consolidate, while opposer failed to oppose the motion, consolidation is inappropriate at this time, and accordingly the motion is hereby **DENIED, WITHOUT PREJUDICE**. Although the same

application is involved in all three oppositions, the opposers in all three cases are different, and all three cases involve claims under Section 2(d) of the Act and are therefore, at least presumably, sui generis. Perhaps more importantly, there is no indication that any of the opposers have discussed consolidation, much less how discovery and trial would be conducted in the three proceedings if consolidated or who would be opposers' lead counsel. See TBMP § 511 (3d ed. 2011). Unless and until all parties discuss these and related issues, and present their views to the Board, consolidation is inappropriate.

Turning next to the motion to suspend, it is hereby **GRANTED** as conceded, because applicant failed to respond thereto, and as well-taken. Trademark Rules 2.117(a) and 2.127(a). Indeed, not only may the Federal Case have a bearing on this one, but in the Federal Case applicant specifically requests "[a]n order instructing the United States Patent and Trademark Office to deny registration of" applicant's involved application. Complaint in Federal Case, Prayer for Relief ¶ (e). Applicant's filing of November 21, 2011 is noted. In the event the Federal Case is suspended in favor of this one, this case will be resumed.

In the meantime, however, proceedings herein are suspended pending final disposition of the Federal Case.

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Within **twenty days** after the final determination (or suspension) of the Federal Case, the parties shall so notify the Board and call this case up for any appropriate action. During the suspension period the Board shall be notified of any address changes for the parties or their attorneys.

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