

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

Mailed: February 17, 2012

Opposition Nos. **91203592** (parent)
91203593
91203680
91203681
91203682
91203684
91203804
91203805
91203806
91203808
91203809
91203810

Public Warehousing Company KSC

v.

Agile Network LLC

**Robert H. Coggins,
Interlocutory Attorney:**

Consolidation

It has come to the attention of the Board that Opposition Nos. 91203592, 91203593, 91203680, 91203681, 91203682, 91203684, 91203804, 91203805, 91203806, 91203808, 91203809, and 91203810 involve the same parties, similar marks, and common questions of law and fact. It would therefore be appropriate to consolidate these proceedings pursuant to Fed. R. Civ. P. 42(a).

Consolidation is discretionary with the Board, and may be ordered upon the Board's own initiative. *See, for*

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example, Wright, Miller, Kane, and Marcus, *Federal Practice and Procedure*, 9A Fed. Prac. & Proc. Civ. § 2383 (3d ed. 2010); and *Venture Out Properties LLC v. Wynn Resorts Holdings LLC*, 81 USPQ2d 1887, 1889 (TTAB 2007) (sua sponte consolidation). The Board may exercise its discretion to consolidate cases prior to joinder of issue. See TBMP § 511 (3d ed. 2011). Accordingly, the Board exercises its discretion, and the above-noted opposition proceedings are hereby consolidated upon the Board's own initiative and may be presented on the same record and briefs. See *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989), and *Hilson Research Inc. v. Society for Human Resource Management*, 26 USPQ2d 1432 (TTAB 1993).

The Board file will be maintained in Opposition No. 91203592 as the "parent" case. Except for an answer to each opposition, the parties should no longer file separate papers in connection with each proceeding. Except for the answers, only a single copy of each paper should be filed by the parties and each paper should bear all twelve proceeding numbers in the caption.

Amended Complaint in 91203592

Opposer's first amended notice of opposition (filed January 31, 2012) is accepted as a matter of course and is opposer's operative pleading in Opposition No. 91203592.

Fed. R. Civ. P. 15(a)(1)(A).

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Misidentification of Opposer

Following publication of application serial Nos. 85285620, 85285611, 85284098, 85284088, 85284077, 85284069, 85287214, 85285655, 85285645, 85285640, 85285634, and 85285622, multiple requests for an extension of time within which to oppose the respective marks were filed by Public Warehousing Company KSC and granted by the Board.¹ Each extension request names Public Warehousing Company KSC as the potential opposer; however, during the respective extension periods granted to Public Warehousing Company KSC, Ability Public Warehousing Company KSC filed notices of opposition against the applications. The name of the opposer in the resulting twelve oppositions differs from the name of the party to whom the extensions of time were granted.²

An explanation is required by opposer. See TBMP § 303.05(c) (3d ed. 2011). If opposer Public Warehousing Company KSC was misidentified through mistake, or if a relationship exists between Public Warehousing Company KSC

¹ Office records reveal that similar extensions of time to oppose have been granted to Public Warehousing Company KSC for application serial Nos. 85284134 and 85284119. Should opposer file a notice of opposition against either of these applications, opposer should carefully review the way its name appears in ESTTA, and correct any mistake thereto and provide an explanation therefor.

² Although the ESTTA cover sheets (which were automatically populated with the prospective opposer's name with the name as provided by the potential opposer when filing the extension requests) list Public Warehousing Company KSC as the opposer in each of the oppositions, the caption and body of the notice of opposition uploaded by the filer for each case name Ability Public Warehousing Company KSC as the opposer.

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and Ability Public Warehousing Company KSC, such as set forth in Trademark Rule 2.102(b), then it is possible that these oppositions may continue. Opposer is allowed until March 15, 2012, in which to respond.

Suspension

Proceedings in all twelve consolidated oppositions are suspended pending disposition of the misidentification issue in each. Applicant's time in which to file an answer in each of the twelve consolidated oppositions will be reset at an appropriate time.