

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

Mailed: February 25, 2014

Opposition Nos. 91205081 (parent)
91210254

Merck Sharp & Dohme B.V.

v.

Dynamic Sports Nutrition, LLC

Veronica P. White, Paralegal Specialist:

On November 25, 2013, applicant filed a motion to consolidate Opposition Nos. 91205081 and 91210254.

Consolidation

Federal R. Civ. P. 42(a), made applicable to these proceedings by Trademark Rule 2.116(a), provides with respect to consolidation of proceedings that, when actions involve a common question of law or fact, the Board may join for hearing or trial any or all of the matters at issue in the actions; may consolidate the actions; and may issue any other orders to avoid unnecessary costs or delay. See TBMP § 511.

The Board has reviewed the records in Opposition Nos. 91205081 and 91210254, and concludes that these cases involve identical parties, similar marks, and common questions of law and fact. It would therefore be appropriate to consolidate

Opposition Nos. 91205081 and 91210254

these proceedings pursuant to Fed. R. Civ. P. 42(a). Accordingly, applicant's motion to consolidate is granted as conceded and well-taken. The above-noted proceedings are hereby consolidated and may be presented on the same record and briefs.¹ See *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991) and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991).

The Board file will be maintained in **Opposition No. 91205081 as the "parent" case**. The parties should no longer file separate papers in connection with each proceeding. Only a single copy of each paper should be filed by the parties in the "parent" case, and each paper should bear the case caption as set forth above.

Suspension

This case now comes up for consideration of applicant's motion to suspend filed on January 21, 2014 in each case.

The motions are granted with the suspensions to take effect retroactively for the purpose of resetting the schedule in these proceedings.

¹ Despite being consolidated, each proceeding retains its separate character. The decision on the consolidated cases will take into account any differences in the issues raised by the respective pleadings, and a copy of the decision will be placed in each proceeding file.

Schedule

The schedule for these consolidated proceedings are reset to coincide with the schedule set forth in the child proceeding as follows:

Initial Disclosures Due	3/27/2014
Expert Disclosures Due	7/25/2014
Discovery Closes	8/24/2014
Plaintiff's Pretrial Disclosures	10/8/2014
Plaintiff's 30-day Trial Period Ends	11/22/2014
Defendant's Pretrial Disclosures	12/7/2014
Defendant's 30-day Trial Period Ends	1/21/2015
Plaintiff's Rebuttal Disclosures	2/5/2015
Plaintiff's 15-day Rebuttal Period Ends	3/7/2015

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 taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.