

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

Mailed: December 27, 2013

Opposition No. 91209226 (PARENT)  
Opposition No. 91211213

Premier Systems USA, Inc.

v.

DISH Network L.L.C.

Jennifer Krisp, Interlocutory Attorney:

When cases involving common questions of law or fact are pending before the Board, the Board may order consolidation of the cases. *See* Fed. R. Civ. P. 42(a); *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, 20 USPQ2d 1154 (TTAB 1991); and *Estate of Biro v. Bic Corp.*, 18 USPQ2d 1382 (TTAB 1991). In determining whether to consolidate proceedings, the Board will weigh the savings in time, effort, and expense which may be gained from consolidation, against any prejudice or inconvenience which may be caused thereby.

Consolidation is discretionary with the Board, and may be ordered upon motion granted by the Board, or upon stipulation of the parties approved by the Board, or upon the Board's own initiative. *See, e.g., Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993); and *Regatta Sport Ltd. v. Telux-Pioneer Inc.*, *supra*.

It is noted that the parties to the captioned proceedings are identical and the issues are similar or related. Accordingly, these oppositions are consolidated and may be presented on the same record and briefs. *See Hilson Research Inc. v. Society for Human Resource Management, supra*; and *Helene Curtis Industries Inc. v. Suave Shoe Corp.*, 13 USPQ2d 1618 (TTAB 1989).

The Board file will be maintained in Opposition No. 91209226 as the “PARENT” case (*see* caption above). In Opposition No. 91209226 opposer’s deadline to file an answer to the counterclaim has not expired, and in Opposition No. 91211213 an order has not issued setting opposer’s time to file an answer to the counterclaim. In view of consolidation, and to maintain order, the Board resets opposer’s time to file an answer to the counterclaim in both oppositions (*see* below). Opposer is directed to file its answer to the counterclaim in each respective proceeding. Notwithstanding this exception, with respect to any other future filings, only a single copy of any motion and any paper should be filed in the parent opposition, and each motion or paper shall caption all consolidated proceeding numbers, listing and identifying the parent opposition first. To be clear, inasmuch as these proceedings are being consolidated prior to joinder of the issues in each proceeding, opposer should file an answer to the counterclaim in each opposition before commencing the practice of filing a single copy of all motions and papers in the parent case.<sup>1</sup>

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<sup>1</sup> The parties should promptly inform the Board of any other Board proceedings or related cases within the meaning of Fed. R. Civ. P. 42, so that the Board can consider whether further consolidation is appropriate.

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

Upon consolidation, the Board resets dates for the consolidated proceeding in view of the dates to be reset in the most recently instituted of the cases being consolidated. Opposer's answer to the counterclaim, discovery, conferencing, disclosure and trial dates are reset as follows:<sup>2</sup>

<b>Answer to Counterclaim Due</b>	<b>February 3, 2014</b>
Deadline for Discovery Conference	March 5, 2014
Discovery Opens	March 5, 2014
Initial Disclosures Due	April 4, 2014
Expert Disclosures Due	August 2, 2014
Discovery Closes	September 1, 2014
Plaintiff's Pretrial Disclosures	October 16, 2014
30-day testimony period for plaintiff's testimony to close	November 30, 2014
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	December 15, 2014
30-day testimony period for defendant and plaintiff in the counterclaim to close	January 29, 2015
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	February 13, 2015
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	March 30, 2015
Counterclaim Plaintiff's Rebuttal Disclosures Due	April 14, 2015

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<sup>2</sup> If the parties file any motion to extend or suspend these dates, the motion should set forth the new proposed schedule in the format shown in this order. See Trademark Rule 2.121(d).

15-day rebuttal period for plaintiff in the counterclaim to close May 14, 2015

**BRIEFS SHALL BE DUE AS FOLLOWS:**

Brief for plaintiff due July 13, 2015

Brief for defendant and plaintiff in the counterclaim due August 12, 2015

Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due September 11, 2015

Reply brief, if any, for plaintiff in the counterclaim due September 26, 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 the taking of testimony. Trademark Rule 2.125.

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.