

THIS OPINION IS NOT A
PRECEDENT OF THE
TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

KWM/gcp

Mailed: October 12, 2016

Opposition No. 91213081 (Parent Case)

*The Trustees of the Bonnie Cashin
Foundation, Lucia Keller and David Baum*

v.

Stephanie Day Lake

Opposition No. 91213082

Coach, Inc.

v.

Stephanie Day Lake

Before Richey, Bergsman, and Pologeorgis,
Administrative Trademark Judges.

By the Board:

These consolidated proceedings now come before the Board for consideration of (1) Stephanie Day Lake's ("Applicant") motion (filed June 1, 2016) for partial summary judgment on the issue of priority of use; and (2) The Trustees of the Bonnie Cashin Foundation, Lucia Keller and David Baum ("The Foundation") and Coach, Inc.'s ("Coach") joint cross-motion (filed June 2, 2016) for summary judgment solely on The Foundation's pleaded claim that Applicant lacked a *bona fide* intent to use the

BONNIE CASHIN mark in commerce on the identified goods when she filed the subject intent-to-use application. The motions have been fully briefed.

The Board initially notes that Coach did not assert a claim of lack of *bona fide* intent in its notice of opposition. A party may not obtain summary judgment on an issue that has not been pleaded. *See* Fed. R. Civ. P. 56(a); *Asian and Western Classics B.V. v. Lynne Selkow*, 92 USPQ2d 1478, 1480 (TTAB 2009). Accordingly, we entertain the cross-motion for summary judgment on the claim of lack of *bona fide* intent as it pertains solely to The Foundation's opposition, i.e., Opposition No. 91213081.

Background

Applicant seeks to register the mark BONNIE CASHIN, in standard character form, for “backpacks, book bags, sports bags, bum bags, wallets and handbags; coin purses; evening handbags; fashion handbags; handbags; handbags for ladies; handbags, purses and wallets; leather handbags; umbrellas; wallets” in International Class 18, and “coats; gloves; hats; jackets; jerseys; pants; robes; skirts; skirts and dresses; sleeveless jerseys; sweaters; tops” in International Class 25.¹

The Foundation and Coach each have filed a notice of opposition opposing registration of Applicant's mark.² As grounds for its opposition, The Foundation asserts the following claims: (1) likelihood of confusion based on common law rights

¹ Application Serial No. 85525339, filed January 25, 2012 based on an assertion of a *bona fide* intent to use the mark in commerce under Trademark Act Section 1(b), 15 U.S.C. § 1051(b).

² Proceeding Nos. 91213081 (parent) and 91213082 (child) were consolidated on January 9, 2015, when the Board granted The Foundation's motion to consolidate as conceded and well-taken. *See* 14 TTABVUE in Opposition No. 91213081.

accruing from its predecessor, Bonnie Cashin, and her use and/or analogous trademark use of the BONNIE CASHIN trademark and trade name; (2) likelihood of confusion based on common law rights accruing from its use of THE BONNIE CASHIN FOUNDATION trademark; (3) Applicant's mark misdescribes the goods identified in the subject application as goods designed by Bonnie Cashin; (4) Applicant's mark falsely suggests a connection with Bonnie Cashin; (5) fraud; and (6) at the time she filed the subject application, Applicant lacked a *bona fide* intent to use the BONNIE CASHIN mark in commerce for the goods identified in the subject application.

In her answer to the Foundation's notice of opposition, Applicant admits that The Foundation owns two pending applications for the BONNIE CASHIN trademark: (1) Application Serial No. 85804303 for goods in International Classes 18 and 25 based on an intent to use the mark; and (2) Application Serial No. 85979323 for goods in Class 18, in which an Amendment to Allege Use was filed on or about April 23, 2013. Answer to The Foundation's notice of opposition at ¶ 6. Applicant further admits that The Foundation "never authorized or licensed Applicant to apply for or use the mark BONNIE CASHIN," and that "Applicant's mark consists of nothing more tha[n] the name of Bonnie Cashin. *Id.* at ¶¶ 11, 22. Applicant also admits the allegation that

In her application filed on or about January 25, 2012, Applicant, through her authorized Attorney of Record, represented in the Declaration that Applicant 'believes the applicant to be the owner of the trademark/service mark sought to be registered,' that she 'believes applicant to be entitled to use such mark in commerce' and that 'to the best of [Applicant's] knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto

as to be likely, when used on or in connection with the goods/services of such person, to cause confusion, or to cause mistake, or to deceive.

Id. at ¶ 29. Applicant otherwise denies the salient allegations set forth in The Foundation's notice of opposition.

The Foundation's Cross-Motion for Summary Judgment

We turn first to the Foundation's cross-motion for summary judgment. In support of thereof, The Foundation maintains that Applicant has failed to produce any documents or corroborating evidence in support of her claimed intent to use the mark, and that at the time she filed the subject application, Applicant had no concrete plans of her own to bring the identified goods to market. The Foundation's brief at p. 11. The Foundation further contends that in her deposition testimony as well as in published commentary, Applicant admits that she filed the subject application merely to reserve the BONNIE CASHIN mark for her future use. *Id.* at pp. 1, 9. Accordingly, The Foundation requests that the Board sustain this opposition proceeding because there is no genuine dispute of material fact that Applicant did not have a *bona fide* intent to use the BONNIE CASHIN mark on the identified goods when she filed the subject application.

In support of its motion, the Foundation has submitted a (1) copy of the discovery deposition of Applicant, (2) excerpts from Applicant's written discovery responses, (3) email correspondence from Applicant, (4) screen shots of The Foundation's website, (5) The Foundation's mission statement and Executor's Preamble establishing The Foundation, and (6) an article about Bonnie Cashin from The New York Times, among other documents.

In her brief in opposition, Applicant argues that her written discovery responses illustrate her *bona fide* intent to use the BONNIE CASHIN mark in commerce in connection with the identified goods. Applicant's response at p. 4. Applicant also includes her own declaration detailing the steps she has taken to commercialize the BONNIE CASHIN mark in connection with the identified goods, and offers exhibits of recent press coverage in support of said commercialization efforts. *Id.* at ¶ 20. Relying on her written discovery responses and her own declaration, Applicant contends that this additional evidence outweighs her failure to provide documentation evidencing her intent to use. *Id.* at p. 9.

In reply, The Foundation maintains that Applicant still has not offered any *objective* evidence to support her claim that she had a *bona fide* intent to use the BONNIE CASHIN mark in connection with the identified goods at the time she filed the subject application. The Foundation argues that her post-application efforts to write a book on Bonnie Cashin and seek out personal publicity in connection with the book, as well as the work she has done as an employee of The Foundation, are not indicative of her intent to use the BONNIE CASHIN mark in commerce in connection with the identified goods. The Foundation's reply at p. 2, 5. Finally, The Foundation contends that the documents Applicant includes as exhibits to her declaration were not previously produced in discovery, and represent Applicant's activities long after she filed her subject application. *Id.* at p. 2, n. 1.

Legal Standard

Summary judgment is an appropriate method of disposing of cases in which there is no genuine dispute as to any material fact, thus leaving the case to be resolved as a matter of law. *See* Fed. R. Civ. P. 56(a). The party moving for summary judgment has the initial burden of demonstrating that there is no genuine dispute of material fact remaining for trial and that it is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1987).

In considering the propriety of summary judgment, all evidence must be viewed in a light favorable to the nonmovant, in this case Applicant, and all justifiable inferences are to be drawn in the nonmovant's favor. *Opryland USA Inc. v. The Great American Music Show, Inc.*, 970 F.2d 847, 850, 23 USPQ2d 1471, 1472 (Fed. Cir. 1992). The Board may not resolve issues of material fact; it may only ascertain whether such issues are present. *See Lloyd's Food Products Inc. v. Eli's Inc.*, 987 F.2d 766, 767, 25 USPQ2d 2027, 2029 (Fed. Cir. 1993); *Opryland USA*, 970 F.2d at 850, 23 USPQ2d at 1472; *Olde Tyme Foods Inc. v. Roundy's Inc.*, 961 F.2d 200, 202, 22 USPQ2d 1542, 1544 (Fed. Cir. 1992).

When the moving party's motion is supported by evidence sufficient to indicate that there is no genuine dispute of material fact, and that the moving party is entitled to judgment, the burden shifts to the nonmoving party to demonstrate the existence of specific genuinely-disputed facts that must be resolved at trial. *Enbridge*, 92 USPQ2d at 1540. The nonmoving party may not rest on the mere allegations of its pleadings and assertions of counsel, but must designate specific portions of the record

or produce additional evidence showing the existence of a genuine dispute as to a material fact for trial. *See* Fed. R. Civ. P. 56(c); *Celotex*, 477 U.S. at 324. In general, to establish the existence of disputed facts requiring trial, the nonmoving party “must point to an evidentiary conflict created on the record at least by a counterstatement of facts set forth in detail in an affidavit by a knowledgeable affiant.” *Octocom Systems Inc. v. Houston Computer Services Inc.*, 918 F.2d 937, 941, 16 USPQ2d 1783, 1786 (Fed. Cir. 1990).

A. Standing

At the outset, we note that Applicant does not contest The Foundation’s standing to pursue its opposition. In any event, we find that there is no genuine dispute of material fact that The Foundation has standing to maintain this proceeding. The Foundation pleaded (The Foundation’s notice of opposition at ¶ 6), and Applicant admitted in her answer (Answer to The Foundation’s notice of opposition at ¶ 6), that The Foundation is the owner of two pending applications for the BONNIE CASHIN mark in connection with goods in International Classes 18 and 25, which have been suspended pending the outcome of the subject application (i.e., Applicant’s application has been cited as a potential bar to the registration of The Foundation’s applications). *See Empresa Cubana Del Tabaco v. Gen. Cigar Co., Inc.*, 753 F.3d 1270, 1275, 111 USPQ2d 1058, 1062 (Fed. Cir. 2014) (quoting *ShutEmDown Sports, Inc., v. Lacy*, 102 USPQ2d 1036, 1041 (TTAB 2012)); *Weatherford/Lamb, Inc. v. C&J Energy Services, Inc.*, 96 USPQ2d 1834, 1837 (TTAB 2010).

B. Bona Fide Intent to Use

We turn next to whether The Foundation has established that there is no genuine dispute as to a material fact for trial on its claim that Applicant lacked a *bona fide* intent to use the BONNIE CASHIN mark in commerce as of the filing date of her involved application. Trademark Act Section 1(b), 15 U.S.C. § 1051(b), states that “a person who has a *bona fide* intention, under circumstances showing the good faith of such person, to use a trademark in commerce” may apply for registration of the mark. An applicant’s *bona fide* intent to use a mark must reflect an intention that is firm, though it may be contingent on the outcome of an event (that is, market research or product testing) and must reflect an intention to use the mark “in the ordinary course of trade, . . . and not . . . merely to reserve a right in a mark.” *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 USPQ2d 1503, 1507 (TTAB 1993) (quoting Trademark Act Section 45, 15 U.S.C. § 1127, and citing Senate Judiciary Comm. Rep. on S. 1883, S. Rep. No. 515, 100th Cong., 2d Sess. 24-25 (1988)).

As a general rule, the factual question of intent is particularly unsuited to disposition on summary judgment. *See Copelands’ Enterprises, Inc. v. CNV, Inc.*, 945 F.2d 1563, 1567, 20 USPQ2d 1295, 1299 (Fed. Cir. 1991). Nonetheless, the absence of any documentary evidence on the part of an applicant regarding its *bona fide* intent to use a mark in commerce constitutes objective proof sufficient to prove that the applicant lacks a *bona fide* intention to use its mark in commerce. *See Commodore*, 26 USPQ2D at 1507. Indeed, the Board has held that where there is no evidence of an applicant’s *bona fide* intent to use the mark at issue on the claimed goods or

services, entry of summary judgment on a claim that the applicant had no *bona fide* intent to use the mark in commerce when he filed his involved application may be warranted. *See Honda Motor Co., Ltd. v. Winkelmann*, 90 USPQ2d 1660, 1664 (TTAB 2009). An applicant's "mere statement of subjective intention, without more, would be insufficient to establish applicant's *bona fide* intention to use the mark in commerce." *Lane Ltd. v. Jackson International Trading Co.*, 33 USPQ2d 1351, 1355 (TTAB 1994).

In determining the sufficiency of documentary evidence demonstrating *bona fide* intent, the Board has held that the Trademark Act does not expressly impose "any specific requirement as to the contemporaneousness of an applicant's documentary evidence corroborating its claim of *bona fide* intention. Rather, the focus is on the entirety of the circumstances, as revealed by the evidence of record." *See Lane*, 33 USPQ2d at 1356.

In this case, The Foundation has proffered Applicant's February 29, 2016 written discovery responses, as well as statements she made during her April 11, 2016 discovery deposition, which The Foundation asserts demonstrates that Applicant had no concrete plans at all to use the BONNIE CASHIN mark in connection with the identified goods. In particular, when asked during her discovery deposition what documents she has to support her intent to use the BONNIE CASHIN mark in connection with the identified goods at the time she filed her trademark application, Applicant only pointed to the declaration her counsel signed when filing the subject application. The Foundation's brief, Exhibit 1 at 146:2-9. Applicant further admits

that she has not used the mark in commerce (The Foundation's brief, Exhibit A at Interrogatory No. 7), nor has she taken any steps to use the mark in commerce since 2012 (The Foundation's brief, Exhibit 1 at 146:10-12). Applicant's testimony and discovery responses indicate that her business strategy for marketing and advertising her products under the mark has not been finalized (The Foundation's brief, Exhibit A at Interrogatory No. 8; The Foundation's brief, Exhibit 1 at 147:3-5); she hasn't commenced advertising (The Foundation's brief, Exhibit A at Interrogatory No. 11); she hasn't determined specific channels of trade or volume of goods to be distributed through such channels, but she intends to sell products online, in print, in catalogs, at industry trade shows, and in retail stores (The Foundation's brief, Exhibit A at Interrogatory Nos. 9 and 13; The Foundation's brief, Exhibit 1 at 146:20-147:2); she hasn't conducted formal consumer research yet but she intends to advertise, promote and sell the identified goods under the mark to "discerning women of all ages" (The Foundation's brief, Exhibit A at Interrogatory Nos. 15 and 17; The Foundation's brief, Exhibit 1 at 146:20-25); and she has not yet developed product designs or mockups to be used in connection with the mark (The Foundation's brief, Exhibit 1 at 146:13-19).

Moreover, The Foundation contends that Applicant's efforts to commercialize the BONNIE CASHIN mark while she served as its Creative Director were made on behalf of The Foundation and occurred well before Applicant's January 25, 2012 filing date, and therefore cannot support her intent to use the BONNIE CASHIN mark at the time she filed her application. Specifically, The Foundation points to Applicant's

deposition testimony that she served as the Creative Director of The Foundation, where she “represented [T]he [F]oundation in all endeavors . . . related to academic, curatorial, editorial, [and] research projects” from about 2006 until about 2012.³ The Foundation’s brief, Exhibit 1 at 18:19-20:14, 66:15-70:10. Applicant registered the domains *bonniecashinfoundation.com* and *bonniecashinfoundation.org*, which she collectively refers to as the “[F]oundation website,” and admits that The Foundation reimbursed her for server usage. *Id.* at 62:8-63:6, 110:4-10. Applicant also admits that in 2009, she drafted the mission statement appearing on the Foundation website, which reads that “in addition to its endowment, [T]he [F]oundation holds the exclusive right to authorize the use of [Bonnie Cashin’s] name, designs, writings and illustrations and to hold and renew registration of her name as a trademark.”⁴ *Id.* at 105:5-21. As creative director, Applicant also “investigated licensing opportunities for the foundation,” and participated in meetings between the The Foundation and International Management Group and licensing firm G-III at least as early as 2006.⁵ *Id.* at 66:10-67:24, 73:1-14, 74:17-75:21, 80:6-13. Applicant further arranged to sell stationary featuring sketches by Bonnie Cashin and a Neal Decker tote bag on the

³ Applicant notes that she was never notified by The Foundation that she had been terminated. The Foundation’s brief, Exhibit 1 at 19:19-20:14.

⁴ The Board notes that archived copies of The Foundation’s website are unavailable because Applicant permanently removed the Foundation website and, while the current proceedings were pending, failed to take any steps to preserve the website’s content. The Foundation’s brief at p. 5.

⁵ The Foundation does not offer any evidence to indicate on what date the meeting with International Management Group occurred.

Foundation website around 2006, for the benefit of The Foundation. *Id.* at 83:24-84:16, 103:24-104:2; *see also* The Foundation's brief, Exhibit 9.

The Foundation further contends that Applicant's statements to the press and in her deposition indicate Applicant's intent to reserve the BONNIE CASHIN mark for her future use, despite The Foundation's claim to the mark. Upon Bonnie Cashin's death in 2000, Applicant asked a member of (what would later become) The Foundation to "register the [BONNIE CASHIN] trademark to protect it for [her] future use." The Foundation's brief, Exhibit 1 at 39:18-40:12. When asked what steps she took to pursue her intent to use the mark in commerce before she filed the subject application, Applicant stated that her "step to start a Bonnie Cashin business, a *bona fide* interest, began with applying for this trademark." *Id.* at 140:20-141:3. The Foundation also points to a May 10, 2016 article in *The New York Times* in which Applicant indicates that *if* she prevails in the present opposition, "Isabel Toledo would be among the first designers she would call to reinvigorate the Cashin brand." The Foundation's brief, Exhibit 16.

Taken together, the evidence that The Foundation submits in support of its motion for summary judgment is sufficient to demonstrate that Applicant has taken no actual steps toward preparing to use the BONNIE CASHIN mark on the identified goods and that Applicant merely had a subjective intent to use the BONNIE CASHIN mark on the identified goods when she filed the involved application. Based on the foregoing, we find that The Foundation has met its initial burden of establishing that there is no genuine dispute of material fact remaining for trial on its claim that

Applicant did not have a *bona fide* intent to use the BONNIE CASHIN mark in commerce when she filed the involved application.

Federal Rule of Civil Procedure 56 requires a nonmoving party to go beyond the pleadings and to set out specific facts showing a genuine dispute for trial. *See* Fed. R. Civ. P. 56; *Celotex*, 477 U.S. at 324. To raise a genuine dispute as to a material fact, Applicant must rely on specific facts that establish that she possessed an ability and willingness to use the BONNIE CASHIN mark as a mark for her identified goods when she filed the involved application. *See Honda Motor Co.*, 90 USPQ2d at 1663-64.

Applicant's arguments in her brief and statements in her declaration do not provide specific facts in support of her intent to use the BONNIE CASHIN mark in connection with her identified goods at the time she filed the involved application. *See, e.g., Honda Motor Co.*, 90 USPQ2d at 1664. Applicant's evidence consists of (1) her own declaration; (2) Applicant's responses to Opposers' second set of written discovery (Applicant's brief, Exhibit A); (3) an Amazon.com listing for Applicant's book, *Bonnie Cashin: Chic is Where You Find it*, published April 12, 2016 (Applicant's brief, Exhibit E); and (4) several press articles discussing Ms. Cashin's career, Applicant's relationship with Ms. Cashin, and/or Applicant's book (Applicant's brief, Exhibits B-D and F-K).

In her declaration, Applicant states that she completed her master's thesis (in 1999) and doctoral dissertation (in 2009) on the life and works of Bonnie Cashin, and she owns Bonnie Cashin's personal design archive. Applicant's declaration at ¶¶s 4,

6. She claims to have worked for The Foundation until 2011. *Id.* at ¶ 8. After filing the subject application, Applicant claims to have consulted with Joel Waller and Loie Maxwell. *Id.* at ¶¶s 12-14. She states that Mr. Waller advised her “to wait until the BONNIE CASHIN trademark became registered, as no significant firm would be interested in licensing until that was complete.” *Id.* at ¶ 12. Applicant also claims to have engaged in several activities to build awareness for the BONNIE CASHIN brand, including writing her book *Bonnie Cashin: Chic is Where You Find it*, speaking with the press about her book and Bonnie Cashin’s career, maintaining social media and website presence, conducting research regarding brand revivals, and conducting museum and gallery exhibitions. *Id.* at ¶¶s 15-20. Applicant further explains that the present opposition has “slowed” her efforts to commercialize the BONNIE CASHIN brand. *Id.* at ¶ 19. Among the various press articles Applicant attaches to support her declaration is an article that mentions the present opposition: “Lake is now embroiled in a legal battle for ownership of the trademark to Bonnie Cashin’s name. For Lake, securing the trademark is vital to protecting Cashin’s legacy. *If she is granted it*, Lake intends to launch a Bonnie Cashin label, which would feature reissued designs and new pieces inspired by Cashin and interpreted by an appointed designer.” Applicant’s brief at Exhibit H (emphasis added).

Applicant also relies on her discovery responses, which she claims illustrate her *bona fide* intent to use the mark. Specifically, Applicant argues that her discovery responses detail the steps she took to file the involved application after learning that The Foundation’s previously filed application for the mark had been abandoned (The

Foundation's brief, Exhibit A at Interrogatory No. 3); discuss her master's thesis, doctoral dissertation, and book, which detail Bonnie Cashin's career (*id.* at Interrogatory No. 5); identify the persons to whom and mediums through which the identified goods bearing the BONNIE CASHIN mark are intended to be listed (*id.* at Interrogatory Nos. 9 and 15); and illustrate the online presence Applicant has established using the Foundation website (*id.* at Interrogatory No. 10).

Applicant's declaration and written discovery responses offer no facts which explain or outweigh the failure of Applicant, when she filed the application, to have documents which support her claimed intent to use the BONNIE CASHIN mark in connection with the identified goods. *See L.C. Licensing, Inc. v. Berman*, 86 USPQ2d 1883, 1891 (TTAB 2008). Applicant's curatorial activities and online marketing conducted as an employee of The Foundation, on behalf of The Foundation, as well as her April 2016 book and press covering her book release, are irrelevant. From 2006 until March 21, 2014, when Applicant removed the statement on The Foundation's website indicating that The Foundation holds exclusive rights in the BONNIE CASHIN mark and changed the copyright notice to remove The Foundation's name and include her own name, Applicant represented to consumers that the BONNIE CASHIN mark identified The Foundation as the source of various goods and services provided through the website. The April 2016 book and its media coverage were all well after the filing date of the application at issue. Applicant's conversations with Mr. Waller *after* filing the subject application, as well as statements she made to the media in 2016 about her intentions for the BONNIE CASHIN brand *if* she prevails

in the present opposition and her deposition testimony that her first step toward launching a BONNIE CASHIN brand was filing the involved application, all detract from the credibility of her assertion of intent. *See Boston Red Sox Baseball Club Ltd. Partnership v. Sherman*, 88 USPQ2d 1581, 1587-88 (TTAB 2008); *L.C. Licensing*, 86 USPQ2d at 1892.

Moreover, Applicant's argument in her brief regarding her decision to defer business plans in light of the subject opposition does not explain her failure to have any documents or other corroborating evidence that show her intent to use the mark at the time the application was filed. *See L.C. Licensing*, 86 USPQ2d at 1891. Applicant's argument that the declaration accompanying the involved application is one such document that supports her intent to use the mark is unavailing. "If the filing and prosecution of a trademark application constituted a *bona fide* intent to use a mark, then in effect, lack of a *bona fide* intent to use would never be a ground for opposition or cancellation, since an inter partes proceeding can only be brought if the defendant has filed an application." *Research in Motion Ltd. v. NBOR Corp.*, 92 USPQ2d 1926, 1931 (TTAB 2009). Finally, Applicant's broad and general discovery responses indicating she intends to sell and advertise handbags, clothing and related items under the mark to women through traditional channels of trade are not supported by any specific facts, or by marketing plans or any other evidence. *See Boston Red Sox*, 88 USPQ2d at 1587. Therefore, after having considered the evidence and arguments submitted by the parties in connection with the motion, and viewing that evidence in the light most favorable to Applicant, we find there is no evidence of

Applicant's *bona fide* intent to use the mark on the identified goods when she filed her application.

Because Applicant has not established that there is any genuine dispute of material fact as to her *bona fide* intent to use the mark on the identified goods, The Foundation's cross-motion for summary judgment is **GRANTED**. Having reached this conclusion, we need not consider Applicant's motion for summary judgment on the issue of priority of use.

In view thereof, The Foundation's opposition is sustained, judgment is entered against Applicant on The Foundation's claim of lack of *bona fide* intent, and registration to Applicant is refused.

Further Proceedings

"Where a final disposition has been entered as to some, but not all, of the cases in a consolidated proceeding, the remaining cases will no longer be considered consolidated with the case for which a final disposition has been entered." TBMP § 511 (2016). Since we have entered a final disposition with regard to Opposition No. 91213081, that proceeding will no longer be considered consolidated with Opposition No. 91213082. Opposition No. 91213082 will proceed as a single case.

In light of our disposition of Opposition No. 91213081, Coach is allowed until **twenty (20) days** from the mailing date of this order to advise the Board whether it wishes to obtain judgment on its asserted claims or have its opposition dismissed without prejudice as moot, failing which Coach's opposition will be dismissed without

Opposition Nos. 91213081 and 91213082

prejudice as moot. Coach should file its response to this Order in its own opposition proceeding, i.e., Opposition No. 91213082.