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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218986
Party	Plaintiff The Co-Executors of the Michael J. Jackson Estate
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Submission	Motion to Consolidate
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Attachments	Joint Motion to Consolidate.pdf(241662 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

THE CO-EXECUTORS)
OF THE MICHAEL J. JACKSON)
ESTATE,)
)
Opposer,)
)
v.) Opposition No. 91212921
)
GOURMETGIFTBASKETS.COM,)
INC.,)
)
Applicant.)

THE CO-EXECUTORS)
OF THE MICHAEL J. JACKSON)
ESTATE,)
)
Opposer,)
)
v.) Opposition No. 91218986
)
GOURMETGIFTBASKETS.COM,)
INC.,)
)
Applicant.)

JOINT MOTION TO CONSOLIDATE

Opposer The Co-Executors of the Michael J. Jackson Estate and Applicant GourmetGiftBaskets.com, Inc. move the Board to consolidate Opposition Nos. 91212921 and 91218986. Under TBMP Rule 511, the Board should consider four factors in deciding whether to consolidate proceedings: (1) the identity of the parties; (2) whether the cases involve common questions of law or fact; (3) the savings in time, effort, and expense resulting from consolidation; and (4) prejudice or inconvenience resulting from consolidation.

With respect to the first factor, the parties are identical in Opposition Nos. 91212921 and 91218986. Therefore, this factor supports consolidation.

With respect to the second factor, the basis for the opposition – false suggestion of a connection with Michael Jackson – is identical in both oppositions. In addition, the applied-for goods and services are overlapping – retail store services featuring popcorn and popcorn. And, while the applied-for marks contain different design elements, they all contain the literal element KINGOFPOP, which forms the basis of the oppositions. Therefore, this factor supports consolidation.

With respect to the third factor, the witnesses are the same in the oppositions. Therefore, time, effort, and expense will be saved in using the documents and discovery responses already produced and consolidating the taking of testimonial depositions. Therefore, this factor supports consolidation.

Finally, with respect to the fourth factor, the Board can, if necessary, find differently with respect to the various applications at issue. As a result, there is no potential for prejudice or inconvenience. Therefore, this factor supports consolidation.

The parties note that under TBMP Rule 511, the Board will generally only consider a motion to consolidate after an answer has been filed in all proceedings in which consolidation is sought. In addition, consolidation will usually occur after initial disclosures have been produced. Nevertheless, the Board retains complete authority to consolidate proceedings at any time and the parties therefore respectfully request that the Board consolidate Opposition Nos. 91212921 and 91218986 as soon as possible. Applicant will file its answer in Opposition No. 91218986 within 30 days of the date of this motion.

Date: January 29, 2015

Respectfully submitted,

GREENBERG TRAURIG, LLP



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CERTIFICATE OF ELECTRONIC TRANSMISSION

I certify that this Joint Motion to Consolidate is being transmitted electronically to the Trademark Trial and Appeal Board of the United States Patent & Trademark Office on January 29, 2015, through the ESTTA electronic filing system at the web site <http://estta.uspto.gov/>.



Joel R. Feldman, Esq.

CERTIFICATE OF SERVICE

I certify that on January 29, 2015, I served the Joint Motion to Consolidate by electronic mail only (by agreement) to:

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