

ESTTA Tracking number: **ESTTA687473**

Filing date: **08/04/2015**

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

Proceeding	91221759
Party	Defendant Brookshire Grocery Company
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Submission	Motion to Consolidate
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Signature	/Paul J. Reilly/
Date	08/04/2015
Attachments	Hershey Canada, Inc. v. Brookshire Grocery Company - Motion on Consent to Consolidate.pdf(302573 bytes )



the current scheduling order in Opposition No. 91221756 from and after the date of consolidation.

The above-referenced Oppositions all involve identical parties and common questions of law and/or fact, including whether or not the registration of the opposed applications will damage Opposer. Further, consolidation would save time, effort and expense for the Board and both parties, and will not cause any prejudice or inconvenience to either party. *See M.C.I. Foods Inc. v. Bunte*, 86 USPQ2d 1044, 1046 (TTAB 2008) (proceeding involved identical parties, identical registrations and related issues); *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293, 1297 (TTAB 1997) (both proceedings involved the same mark and virtually identical pleadings); *Ritchie v. Simpson*, 41 USPQ2d 1859, 1860 (TTAB 1996) (cases consolidated despite variations in marks and goods), *rev'd on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999).

On behalf of Hershey, Opposer's counsel Paul C. Llewellyn, a partner of the law firm of Kaye Scholer LLP, in an email dated August 2, 2015 consented to consolidate these Opposition proceedings.

WHEREFORE, in view of the foregoing, Applicant respectfully requests an Order consolidating the above-referenced Opposition proceedings, and setting the current scheduling order in Opposition No. 91221756 as the governing scheduling order for these consolidated proceedings.

Respectfully submitted,

BAKER BOTTS LLP

By:  \_\_\_\_\_

Paul J. Reilly

Dated: August 4, 2015

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of August, 2015, a true and correct copy of the foregoing MOTION ON CONSENT TO CONSOLIDATE was served via email and Federal Express overnight courier to:

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